

**Convict Labour and Colonial Society**  
**in the Campbell Town Police District: 1820-1839.**

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## Abstract

This thesis examines the lives of the convict workers who constituted the primary work force in the Campbell Town district in Van Diemen's Land during the assignment period but focuses particularly on the 1830s. Over 1000 assigned men and women, ganged government convicts, convict police and ticket holders became the district's unfree working class.

Although studies have been completed on each of the groups separately, especially female convicts and ganged convicts, no holistic studies have investigated how convicts were integrated into a district as its multi-layered working class and the ways this affected their working and leisure lives and their interactions with their employers.

Research has paid particular attention to the Lower Court records for 1835 to extract both quantitative data about the management of different groups of convicts, and also to provide more specific narratives about aspects of their work and leisure. Local administrative records from the Convict Department, the Colonial Secretary's Office and the Engineers Department as well as the diaries and letters of colonists, accounts of travellers, almanacks and newspapers have also been used.

Some key results proposed in the thesis include the following:

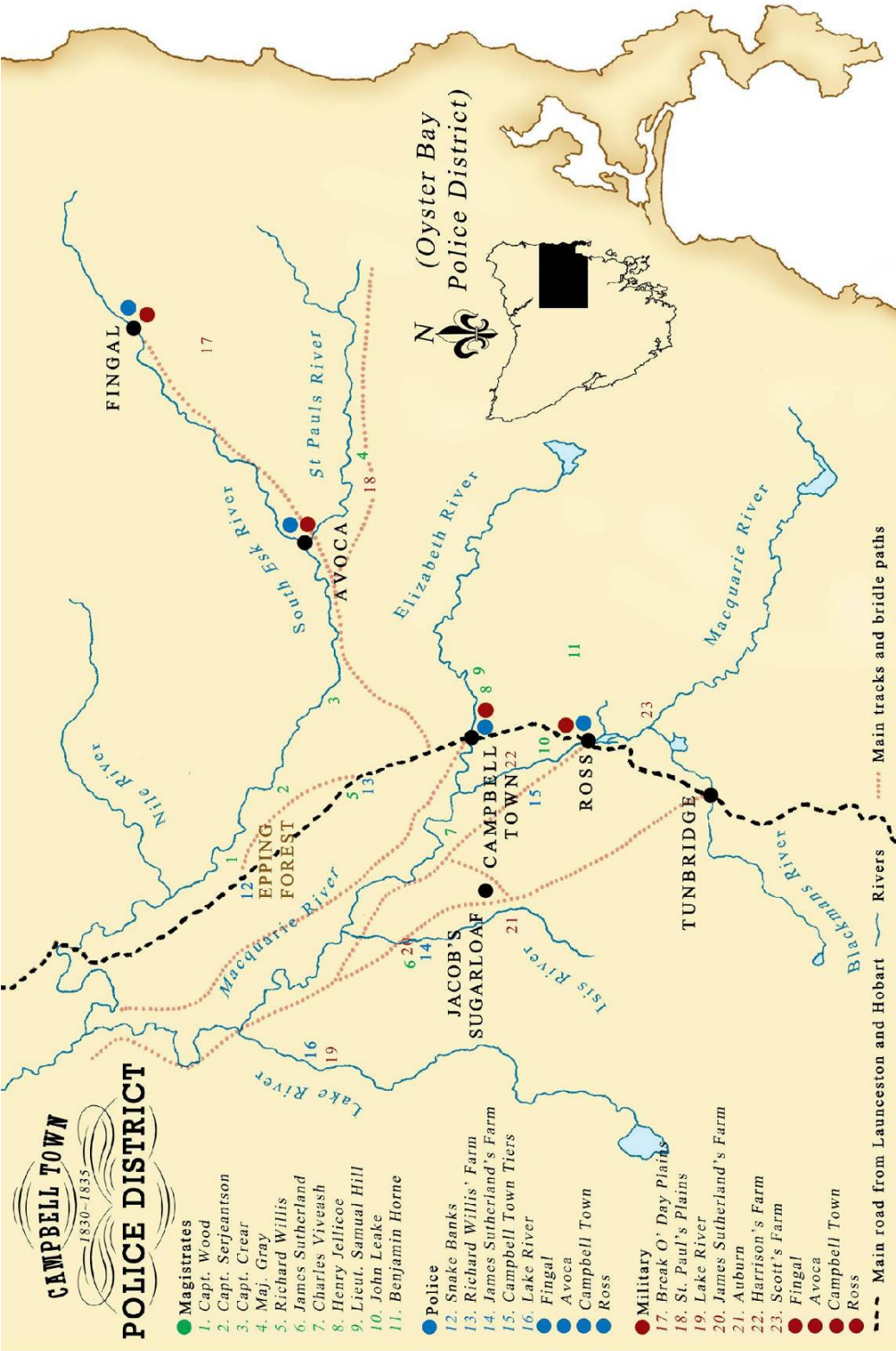
Local magistrates had more varied and liberal middle class backgrounds than their contemporaries in New South Wales. They willingly became the governor's agents of control over the convict work force, accepting his political authority, and remained primarily interested in increasing their wealth. The duties undertaken by convict police were more complex than the literature acknowledges and the claims of corruption and inefficiency made against police by the contemporary press are challenged. Ganged men maintained interactions with the general community outside their gangs, including complex trading and commercial transactions. The scarcity of female convicts caused them to have significant bargaining power and be allocated as a priority to the largest landowners, where they gave satisfactory service as

domestic workers and showed little evidence of being unduly promiscuous or difficult to manage. On farm worksites where a mixed work force of assigned men, ticket holders and free men worked, convicts established hierarchies of control of the significant resources such as alcohol and cash and redistributed these amongst themselves by supplying market needs within their own reach.

The political economy of the district and the ambitions of the large landowners to acquire wealth rapidly were instrumental in changing the ways they managed their convict workforces, while their convict workers also exploited any opportunities they could find to improve their conditions and retain as much of their freedom and working class culture as possible. On sites where convicts and employers negotiated reasonable working conditions, employers rarely took their workers before the courts on discipline charges.

The convict administration was unable to enforce its expectations about the strict control of convicts by free market employers, neither could it fully limit convicts' movements around rural districts, by stemming the high absconding rates from government gangs or the more limited movements of assigned men and women around the villages or farms where they worked. As an employer, the administration frequently failed to deliver the basic necessities to which its ganged men were entitled by regulation, nor did it always deliver rewards to those who complied with its requirements. Instead it kept men and women at work by sanctioning local magistrates to use harsh punishments like imprisonment, flogging and sentences to road parties and chain gangs for convicts who were charged with disobeying trivial work regulations.

Map of the Campbell Town Police District (1830-1835)



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## Introduction

This thesis is a regional study of the convict workforce and the forces that controlled it within the Campbell Town police district, one of the seven rural police districts established in 1827. Few studies to date have investigated the work of assigned convicts and none so far has attempted to delineate how a complete convict workforce functioned within a district as the community's primary working class.

The aim of the study is to examine who controlled the convict workforce and how the various groups of convicts in the workforce responded. Their working lives, resistance to control, punishment and reclamation of free space are important elements in documenting their lives.

Between 1822 and 1840 Van Diemen's Land underwent a remarkable economic transformation that materially affected the settlers and their convict workers. The economy changed from a small-holder, self-sufficient peasant economy to an agrarian one dominated by a small group of capitalised farmers, some with farms as large as 30,000 acres whose purpose was to produce fleece and crops. While Van Diemen's Land could only boast of twenty really wealthy men prior to 1821, by 1840 they numbered several hundred, including merchants but mostly farmers who made their wealth in wool.<sup>1</sup> The Midlands, which included the Campbell Town police district, was the area that nurtured most of the self-made middle-class farmers and became the centre of the island's wool industry.

The change in focus from self sufficiency (and a small export trade mostly in fisheries products) was introduced by the *Bigge Report*, which recommended a system of large land grants to men with capital, and a change in convict policy. The assignment system would provide the labour needed by the new farmers by leasing male convicts to them as agricultural labourers thus taking them off the colonial government's hands. Small numbers of skilled convicts would also be sent to supply

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<sup>1</sup> Gordon Rimmer, "The Economic Growth of Van Diemen's Land, 1803-1821" in G.J. Abbott & N.B. Nairn (eds) *Economic Growth of Australia, 1788-1821*, Carlton, Melbourne University Press, 1969, pp. 327-328.

the trade workforce needed by farmers and commercial interests, in greater proportions than found in Britain.<sup>2</sup> Lobbying in London by interests from the infant wool industry in New South Wales had convinced the colonial office that wool could become a major export to supply the British cloth manufacturers.

By 1822 free families with capital started to arrive in Van Diemen's Land. They included many half pay officers who had sold their commissions and most arrived with up to £3000, an amount that could attract the maximum grant of 2600 acres. By 1825 they had selected the best land across the island, including in the Campbell Town police district.

The first farmers experimented with both grazing and cropping and ready markets were found for wheat and meat by supplying the free market and the government Commissariat Stores in Hobart and Launceston. Rough wool was exported to London from the meat breeds of sheep that dominated early sheep culture.

Farmers who had introduced some fine wool sheep from the start quickly changed to these breeds after the British wool industry slumped between 1825-1833, as the demand and prices for coarse wool dropped.<sup>3</sup> From then on good returns from wool depended on continuing to increase the volume of fine wool shipped each year rather than depending on high prices in London.<sup>4</sup> High prices for breeding stock and wool did not return until 1834-1837, after the British woollen industry had introduced new technology, transport prices fell and the demand for fine wool sheep increased as flocks were moved to the newly opened lands in Port Phillip District (Victoria) and South Australia on the mainland.<sup>5</sup>

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<sup>2</sup> N. G. Butlin, *Forming a Colonial Economy, Australia 1810-1850*, Cambridge, Cambridge University Press, 1994, p. 49.

<sup>3</sup> James Ross, *Hobart Town Almanack, and Van Diemen's Land for 1834*, Hobart, James Ross Publisher, 1835, p.67. See also R.M. Hartwell, *The Economic Development of Van Diemen's Land, 1820-1850*, Carlton, Melbourne University Press, 1954, p.117.

<sup>4</sup> N. G. Butlin, J. Ginswick & P. Statham, 'Colonial Statistics before 1850', *Source Papers in Economic History*, No. 12, Canberra, Australian National University, 1986, p. 65. The authors claim that a total of 925,320 lbs of wool were produced in 1829, rising to 1,359,203 lbs in 1831. See this reference for wool production from 1822 – 1839.

<sup>5</sup> Sylvia Morrissey, 'The Pastoral Economy, 1821-1850', in James Griffith (ed), *Essays in Economic History of Australia*, Milton: Queensland, Jacaranda Press, 1967, pp. 75-76.

In addition to wool many farmers increased their profits by growing wheat. Most of the crop supplied the relatively steady market in Van Diemen's Land but between 1828 and 1830 a drought in New South Wales created a well priced export market for those who shipped their crops there. This reoccurred in 1839.<sup>6</sup> The volatility of both wool and wheat prices during these two decades required careful financial management skills as well as farming skills.

The whole colonial economy lived on credit advanced by London banks & merchants. Farmers needed it to cover their cash flow requirements between growing & selling their wool and produce, and local merchants bought their consignments of imported goods on credit.<sup>7</sup> However, Van Diemen's Land experienced continuous balance of payments problems in the 1820s and 1830s, created by fluctuating wool prices, overspending on imported goods and credit squeezes caused by periodic downturns in the British economy.<sup>8</sup> While the increasing annual production of wool partly offset falling wool prices for farmers, colonial merchants were more exposed and many suffered bankruptcies during these downturns. But credit crises also affected those farmers who had overextended their loans. Strict debt control was probably a key factor for successful farmers that helped them through periods of low credit availability. These periods also provided opportunities for cashed up farmers to purchase additional land from absentee landlords or farmers who were forced to sell up to pay debts.

The majority of those destined to be the Midland's major farmers by 1836 had already established themselves by 1830, just five or six years after their arrival.<sup>9</sup> This remarkably short time suggests that these particular farmers had taken advantage of wheat prices when they were high, had increased their fine wool flocks, had managed debt well during the credit squeezes and had cash in hand to buy more land

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<sup>6</sup> James Ross, *Hobart Town Almanack, and Van Diemen's Land for 1834*, Hobart, James Ross Publisher, 1835, p.70. See also Sylvia Morrissey, 'The Pastoral Economy, 1821-1850', in James Griffith (ed), *Essays in Economic History of Australia*, Milton: Queensland, Jacaranda Press, 1967, p. 76.

<sup>7</sup> R. M. Hartwell, *op.cit.*, pp. 167-168.

<sup>8</sup> *Ibid.*, pp. 185-187.

<sup>9</sup> See Appendix 6C: *General wealth comparisons in 1830*. Sixty four successful farmers were identified and named by Ross. This list is reproduced in Charles M. Goodridge, *Statistical view of Van Diemen's Land...forming a complete emigrant's guide*, London, Hamilton & Adams, 1832, pp. 220.

advantageously when others were forced to sell up. Sixty four of these men were identified in the Campbell Town police district in 1830 and another 27 in the Norfolk Plains district and 35 in the Oatlands district.<sup>10</sup> The key difference in production between the districts was the number of acres suitable for farming. In all three districts, sheep were farmed as heavily as the number of available acres would allow, while all were also large wheat producers, with wheat fields as large as 60 acres being possible with the available technology and manpower.<sup>11</sup> The Campbell Town district had the largest population of 180,000 sheep, while 75,000 were farmed in Norfolk Plains and fewer again in the smaller Oatlands district.<sup>12</sup> It appears that wool was the product that gave the most advantage to farmers establishing themselves because of its low labour costs even though cropping and other enterprises also contributed to the overall productive wealth of the farm.<sup>13</sup> Butlin concluded that the average Gross Domestic Productivity [GDP] grew at an explosive rate of 13% per year in Van Diemen's Land in the thirty years up to 1840.<sup>14</sup>

Convicts were sent out to be the colony's primary working class and provide cheap labour for the new middle class settlers attracted by free land grants. Convicts were fit, aged in their early twenties and the majority possessed basic literacy skills. Most were convicted thieves who had also worked at times in a number of different industries but had supplemented their earnings with felonies. Over 70% of the women had some experience working as domestics and were needed to staff the households of the colonial middle class. The majority of men had been labourers but up to 40% had trades, many of which proved useful in a developing colony.<sup>15</sup> A lot had lived or worked in rural areas, particularly the recently industrialized counties in the north of England, although many also came from London and its surrounds. They were a cross section of the working class who brought with them the wide diversity

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<sup>10</sup> Ibid, pp. 220, 226, 231.

<sup>11</sup> See Appendices 6A: *General land comparisons in 1830* and 6D: *Agricultural comparisons in 1830*. See also David Hansen, *John Glover and the Colonial Picturesque*, Hobart, Tasmanian Museum and Art Gallery & Art Exhibitions Australia Ltd, 2003, p. 95. Glover's sketch of Patterdale farm, showing all improvements including the 60 acre wheat paddock.

<sup>12</sup> See Appendix 6E: *Livestock comparisons in 1830*.

<sup>13</sup> See Appendix 6D: *Agricultural comparisons in 1830*. Campbell Town ,Norfolk Plains districts cropped similar numbers of acres with fewer acres under crops in Oatlands.

<sup>14</sup> N. G. Butlin, *Forming a Colonial Economy, Australia 1810-1850*, Cambridge, Cambridge University Press, 1994, p. 97.

<sup>15</sup> Stephen Nicholas (ed), *Convict Workers: reinterpreting Australia's past*, Cambridge, Cambridge University Press, 1988, Table 5.5, p.72.

of cultural behaviors that characterized their class, behaviors that they replicated in the colony. This thesis examines how such a group of people worked as forced labour in the Campbell Town police district in Van Diemen's Land particularly in the mid 1830s when the assignment system had reached its maturity under the close management of Lieutenant-Governor George Arthur. By this time, convicts and emancipists filled all niches in the district's working class.

Several large questions have engaged Australian historians about convict origins and behaviour but early positions about these have been modified over the last half century by further research and changed social attitudes. This study has to engage with most of these questions because by taking a whole community approach to the convict workforce of a district, both the contemporary views of the culture in which the work force was embedded and the later historical analyses of these issues remain significant.

Had the convict working class in the colonies belong to a criminal class before transportation or were they workers who were also opportunistic petty thieves to supplement their income? This question has remained important to historians because of its wider implications for colonial society. Earlier historians such as Shaw and Robson supported the view that convicts were drawn predominantly from young "professional and habitual criminals" although Shaw tempered this by acknowledging that many grew out of their habits.<sup>16</sup> By 1999 Shaw modified this further by acknowledging that he never intended to imply they constituted a criminal class, an economic grouping who gained their living exclusively from thieving. Instead he saw them as a "moral (immoral) grouping" that had chosen thieving when many of the poor, in equally dire straights had not.<sup>17</sup> By this time, later historians had also adopted this distinction, and descriptions like "undesirables", "pests" or "gypsy-like pilferers" appeared. And yet some historians also accompanied these comments

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<sup>16</sup> A. G. L. Shaw, *Convicts and the Colonies A study of Penal Transportation from Great Britain & Ireland to Australia and other parts of the British Empire*, London, Faber & Faber, 1966, p. 165 and L.L. Robson, *The Convict Settlers of Australia An Enquiry into the Origins and Character of the Convicts transported to New South Wales and Van Diemen's Land 1788-1852*, Carlton, Melbourne University Press, 1965.

<sup>17</sup> A. G. L. Shaw, 'Exiles of Empire: Convict Experience and Penal Policy, 1788-1852', papers delivered at the Centre for Tasmanian Historical Studies annual conference, *Tasmanian Historical Studies*, Vol.6, No.2, 1999, p. 6.

by references to their depravity, inferiority and infamy, descriptors taken directly from the pejorative comments of the highly moralistic nineteenth century middle class, descriptors unlikely to be used by historians in the late twentieth century about contemporary petty thieves.

Sturma denied the criminal class theory and argued that convicts were simply working class men and women who engaged in simple larcenies to supplement their income. The notion of a criminal class had been propelled in the colonies by middle class jealousies against the growing power and wealth of many former convicts and fears and disgust of their social habits (drinking, swearing, de facto relationships, sodomy in gangs and lesbian relationships in women's prisons).<sup>18</sup> Revisionist historians engaged more with fleshing out the personal, social and economic circumstances of young female convicts. Deborah Oxley argued that female convicts were also overwhelmingly convicted for petty thieving, with around 38% of them transported for their first conviction. Most, however were condemned by contemporaries and later historians for notes on their records that stated many of them had been engaged in casual prostitution for varying lengths of time, an activity that was a moral, but not a criminal offence. Oxley argued that the majority of female convicts were domestic servants who were more affected by economic downturns than men and used thieving and casual prostitution to survive periods of hardship.<sup>19</sup> Babette Smith and Portia Robinson further emphasised their difficult personal histories in making a living in Britain.<sup>20</sup> Kent and Townsend conversely claimed working class women had far greater agency in Britain and a more robust and rowdy culture that resisted domination by the middle class until well into the nineteenth century. They rejected hard luck stories as the main motive for thieving, claiming

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<sup>18</sup> Michael Sturma, 'Eye of the Beholder: The Stereotype of Women Convicts, 1788-1852' *Labour History*, 34, 1978, pp. 3-10 and *Vice in a vicious society: crime and convicts in mid-nineteenth century New South Wales*, St. Lucia: Queensland, University of Queensland Press, 1983.

<sup>19</sup> Deborah Oxley, 'Female Convicts', in Nicholas Stephen, (ed), *Convict Workers: reinterpreting Australia's past*, Cambridge, Cambridge University Press, 1988, pp. 85-97. See also Deborah Oxley, *Convict maids: the forced migration of women to Australia*, Cambridge: Melbourne, Cambridge University Press, 1996.

<sup>20</sup> Babette Smith, *A Cargo of Women, Susanna Watson and the convicts of the Princess Royal*, Kensington, New South Wales University Press, 1988, *passim*. See also Portia Robinson, *The Women of Botany Bay: a reinterpretation of the role of women in the origins of Australian society*, Ringwood: Victoria, Penguin, 1993, *passim*.



that greed and social protest were also likely to have influenced some women to steal.<sup>21</sup>

Further useful debate about the criminal antecedents and the lives of transported convicts may be enriched by considering the ongoing research of social historians who document traditional working class behaviour in Britain, including Ginger Frost on courtship and marriage customs, Angus McLaren on reproductive rituals, Barry Reay on the lives of the labouring poor and June Purvis on working class women. Likewise a further understanding of the colonial middle class can be assisted by comparative studies such as Jessica Kross on colonial American mansion houses and Kirsten McKenzie's study of the Cape colony's middle class, as well as Davidoff & Hall's study of the British middle class. Criminologists also have made contributions to the post Mayhew debates about crime and the poor, including Clive Emsley, David Jones, Peter King and David Phillips.

By the mid 1980s Nicholas *et al* in their book *Convict Workers* broke new ground when they quantified the convicts' extensive list of work skills and experience from the convict indents. While the major emphasis was on New South Wales, the issues were equally pertinent to Van Diemen's Land. *Convict Workers* argued that convicts had higher literacy rates than their stay-at-home working class peers and large numbers were skilled tradespeople, an assertion supported later by Butlin.<sup>22</sup> *Convict Workers* argued that an efficient free labour market existed that could absorb assigned workers while the administration competed with the free market to retain sufficient clerks and skilled tradespeople to staff its departments, hospitals and orphanages as well as needing unskilled labour for building public infrastructure (roads, wharves, bridges). The care and feeding of convicts reflected the value of convicts as productive assets. A study of physical punishment argued that it was used to maintain work outputs and was not indiscriminately applied as earlier narratives had suggested. Although generally well received, some criticisms included doubts about the accuracy of the convicts' claims about their skills; claims that it merely supported earlier historians assessments about convicts being habitual criminals;

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<sup>21</sup> David Kent & Norma Townsend, ' "Female Convicts": An Accurate View of Working Class Women?', *Labour History*, 65, November 1993, pp. 179-191.

<sup>22</sup> N. G. Butlin, *Forming a Colonial Economy, Australia 1810-1850*, pp. 44 – 51.

concerns that some of the contributors appeared to be feminists; and concerns that quantitative history was inferior to other types of history as it left out so much and couldn't find complete sets of data on which to build its case.<sup>23</sup> Despite the lively debates *Convict Workers* has prompted many of the new directions that have emerged in convict studies as it shifted the emphasis from who the convicts were before they arrived to what they were able to do as workers after they landed. It also encouraged historians to go back to the archives and start detailed investigations of the many sets of data that despite their flaws can provide quantitative evidence about convict work and life.

A growing literature has also developed about convict workplaces that include the government lumber yards in Sydney, the building of the Sydney court house and other public works projects.<sup>24</sup> Other studies have investigated government road parties and penal settlements as work sites. Many of these studies refer to some of the issues raised by Nicholas *et al*: including skills, work outputs, rations and punishment related to productivity. In addition some document the lives of the workers and explore the concepts of community that developed and the often complex relationships amongst the workers and their overseers. In many respects these are micro-regional studies as each is linked to a specific location or area.

Karskens, Gunn and Walker have explored the concept of the management of convict public works gangs in the Blue Mountains in New South Wales, Flinders Island and Bridgewater in Van Diemen's Land. The studies all address the key question of whether punishments or incentives were used to produce acceptable work outputs from the convict tradesmen and the men in the road and chain gangs, and challenge the colonial opinion that convict public works gangs were inefficient. Karskens used the archaeology of Coxes Line of Road and the Great North Road to demonstrate the skill levels that ganged men were able to achieve in their construction of stone culverts and bridges under the tuition of the colonial engineers Cox and Lockyer. She used public works documents about the training of the men and the efficient use of

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<sup>23</sup> Alistair Davidson, 'Convict Workers—a review', *Australian Historical Studies*, No.93, October 1989, pp. 480-1.

<sup>24</sup> W. M. Robbins, 'The Lumber Yards: a Case Study in Management of Convict Labour 1788–1832,' *Labour History*, No. 79, November 2000, pp. 141–161. and Barrie Dyster, 'Bungling a Courthouse: a story of convict workplace reform', *Journal of the Royal Australian Historical Society*, Vol. 93, part 1, June 2007, pp. 1-21.

semi-skilled gangs as well as the personal styles of management of the engineers, who treated the gangs as they would free workers.<sup>25</sup> Gunn used archival resources to determine that the Flinders Island public works gangs used an unusually high ratio of billeted convict tradesmen to ganged convicts to construct the buildings.<sup>26</sup> While Walker used the official monthly gang returns to document the correlation of punishment to outputs in the Bridgewater chain gang. All studies use archival sources to address the issues of food used as an incentive and document changes in rations levels.<sup>27</sup> These studies demonstrated that a variety of different management strategies affected work outputs and show that the management of public works gangs may have varied a great deal more from site to site than anticipated. More studies on additional sites may clarify this further.

McCabe in her study of a particular group of assigned female convicts in the Hunter Valley in the 1830s used magistrate's bench book records and archival sources to look at the work outcomes for this group of domestic servants. From the data, she found that the women after a period of initial adjustment to colonial conditions, had mostly only two masters while under sentence, had very few convictions recorded against them, and often received very good character references from their masters which enabled many single women to receive permission to marry. Her data also suggested that the women stayed in domestic service for longer periods with the larger landowners.<sup>28</sup> These conclusions challenge some of the colonial stereotypes of female convicts as indifferent workers and immoral.

In questioning the more lurid emphases on the punishment of convicts, Maxwell-Stewart, in his work on the Macquarie Harbor penal station demonstrated that inducements and punishments were finely balanced management tools designed to extract the necessary amount of labour to produce goods and utilities. While

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<sup>25</sup> Grace Karskens, 'Defiance, Deference and Diligence: Three Views of Convicts in New South Wales Road Gangs', *Australasian Historical Archaeology*, 4 1986, pp. 17–28 and *An historical and archaeological study of Cox's Road and early crossings of the Blue Mountains, New South Wales*, Sydney Crowns Land Office, Bicentennial Project Unit, 1988.

<sup>26</sup> Thomas Gunn, *A Vile Set? An Assessment of the Flinders Island Convict Work Gangs 1831 – 1839*, Thesis, Bachelor of Arts with Honours in History, School of History and Classics, University of Tasmania, 2003.

<sup>27</sup> C. Walker, *A Sentence in Irons: Convict Chain Gangs in Colonial Van Diemen's Land*, Thesis, Bachelor of Arts with Honours in History, School of History and Classics, University of Tasmania, 2004.

<sup>28</sup> Kristine McCabe, 'Assignment of Female Convicts on the Hunter River, 1831-1840', *Australian Historical Studies*, No 113, Oct 1999, pp. 286-302.

conversely, convicts used the regulations to extract as many indulgences as possible, in lieu of wages. The many weekly and monthly reports of rations usage, labour outputs and punishments that were forwarded to the convict department from Macquarie Harbor penal station documented these management intentions and illustrated that the penal station was in fact a large work site with many different groups of workers [ship builders, bakers, builders, log cutters etc] competing for indulgences and enjoying very varied accommodation and working conditions, according to their cooperation with the work regimes.<sup>29</sup>

Female convicts have received close attention from a large group of historians who repudiated traditional views of them as unskilled and immoral. While Oxley and Sturma documented their former employment in domestic service and the great middle class need for female house servants in the colonies, others have argued that their broader range of skills made a larger contribution to the colonial economy, despite the relatively small numbers of women who arrived with trade skills.<sup>30</sup> Salt argued that female labour was difficult to absorb in New South Wales until well into the 1840s which resulted in many women waiting for assignment in the female factory for long periods, unlike the situation in Van Diemen's Land where Reid noted a great demand for female domestic labour which the transportation system was unable to fully satisfy especially in relation convict women with skills such as tailors, dressmakers, hatters, stay makers etc.<sup>31</sup> Yet women who had to earn a living found a wide variety of ways of doing so. Bowd in a study of female heads of households in the 1828 New South Wales census found that while 50% of former convict women worked mostly at unskilled or semi-skilled jobs, another 30% owned either farms or a business or had an independent income and around 20% worked

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<sup>29</sup> Hamish Maxwell-Stewart, 'Convict Workers, Penal Labour and Sara Island: Life at Macquarie Harbour, 1822-1834', Ch 8 in Duffield Ian and Bradley James, Eds., *Representing Convicts: New Perspectives on Convict Forced Labour Migration*, London, Leicester University Press, 1997, p. 142-162.

<sup>30</sup> Deborah Oxley, 'Female Convicts', in Nicholas Stephen, (ed), *Convict Workers: reinterpreting Australia's past*, Cambridge, Cambridge University Press, 1988, Table 6.2 -Female Occupations, p. 92; and Michael Sturma, 'Eye of the Beholder: The Stereotype of Women Convicts, 1788-1852' *Labour History*, 34, 1978, pp. 3-10.

<sup>31</sup> A. Salt, *These Outcast Women: The Parramatta Female Factory 1821-1848*, Sydney, Hale & Iremonger, 1984. Kirsty Reid, 'Setting Women to Work: The Assignment System and Female Convict Labour in Van Diemen's Land, 1820-1839', *Australian Historical Studies*, Vol. 34, 121, 2003, pp. 1-25.

with the family or from home eg land ladies, washerwomen etc.<sup>32</sup> These studies suggest that the demand for female convict and emancipist labour may have varied considerably in early colonial times in the two colonies and women may have had to find all sorts of employment niches to occupy. Further studies of particular groups of working female convicts and emancipists are needed to develop a broader picture of women's work in particular places, how they were affected by the issues of supply and demand, and how women found or created work for themselves. In this thesis the study of female convicts, almost wholly employed as rural domestic labour in the 1830s, provides one such additional work study and explores their personal behavior: their drinking, sexuality, rates of absconding and marrying to form a composite picture of their life that challenges colonial stereotypes of them as workers and women.

While Nicholas challenged historians to reconsider the question of the punishment of convicts as a management tool to enforce work outputs, many historians have seen other aspects of its operation at different times and in different settings as less benign. Many have coupled it with convicts' acts of defiance and agency. The brutality of floggings and high rates of hangings especially in Van Diemen's Land during Arthur's administration, were unusually harsh and repellent. Maxwell-Stewart's work on Port Arthur and Macquarie Harbour, and Evans and Thorpe's works on Morton Bay and their study of resisters documented the many ways the system used to break the will of men. The grinding work demanded in some road parties, chain gangs and penal settlements combined with reduced rations, inadequate clothing and poor accommodation was designed to break resistance and force compliance. The iron will of male resisters who endured increasingly inhumane punishments and the parallel creation of "broken men" by the system were the extremes at which the convict system operated to retain control over tens of thousands of convicts.<sup>33</sup> Head shaving, iron collars, stocks and treadmills were used

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<sup>32</sup> Lynne Bowd, 'On her Own: Women as Heads of Family Groups in the 1828 Census', *Australian Historical Studies*, 107, 1996, pp. 303-321.

<sup>33</sup> Raymond Evans & William Thorpe, 'Power, Punishment and Penal Labour: Convict Workers and Morton Bay', *Australian Historical Studies*, Vol. 25, No.98 (April 1992), pp. 90-111. See also their 'Commanding Men: Masculinities in the Convict System', *Journal of Australian Studies*, No. 56, 1998, pp. 17-34. Hamish Maxwell-Stewart, 'Convict Workers, Penal Labour and Sara Island: Life at Macquarie Harbour, 1822-1834', Ch 8 in Duffield Ian and Bradley James, Eds., *Representing*

to humiliate and shame the women. Damousi, Daniels and Reid have refuted the notion of female convicts as victims by exploring the sharp end of the punishment of women in the female factories and their confronting culture of drinking, ribald songs, mockery, strikes and arson that defied their jailers.<sup>34</sup> Robson & Roe showed that an increasingly sickened urban middle class argued for the end of transportation in the late 1830s.<sup>35</sup>

More recent studies have started to document that less extreme protests also existed within the convict population and that many otherwise compliant assigned convicts engaged in minor acts of defiance and a longing for control over their lives through body tattoos and medallions (convict love tokens) that spoke of home, freedom or love.<sup>36</sup> Hindmarsh described some assigned servants protesting more vigorously by rick burning, stock maiming or damaging items belonging to their employer.<sup>37</sup> The themes of protest and punishment are explored in this thesis for all the local groups of convict workers, particularly by tracing the ways men and women worked within the system to gain levels of control over their lives. Although the most extreme forms of protest or punishment rarely appear at this local level, the sentencing of men and women to gangs and the female factory, the local use of the lash administered at the Campbell Town and Ross jails and the finely graded sentencing strategies of the

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*Convicts: New Perspectives on Convict Forced Labour Migration*, London, Leicester University Press, 1997, p. 142-162. See also his 'The Rise and Fall of John Longworth: Work and Punishment in Early Port Arthur', *Tasmanian Historical Studies*, Vol.6, No.2, 1999, pp. 96-114.

<sup>34</sup> Joy Damousi, ' "What punishments will be sufficient for these rebellious hussies?" Headshaving and Convict Women in Female Factories, 1820-1840', in Duffield Ian and Bradley James, *Representing Convicts: New Perspectives on Convict Forced Labour Migration*, London, Leicester University Press, 1997 and *Depraved and disorderly: female convicts, sexuality and gender in Colonial Australia*, Cambridge, England, Cambridge University Press, 1997. See also her "Contumacious, Ungovernable and Incurable": Convict Women and Workplace resistance, Van Diemen's Land, 1820-1839', in Ian Duffield & James Bradley, (eds), *Representing Convicts: New Perspectives on Convict Forced Labour Migration*, London, Leicester Press, 1997. Kay Daniels, 'The Flash Mob: Rebellion, Rough Culture and Sexuality in Female Factories of Van Diemen's Land', *Australian Feminist Studies*, Vol. 18, Summer 1993, pp. 133-150.

<sup>35</sup> Lloyd Robson & Michael Rowe, *A Short History of Tasmania*, Melbourne, Oxford University Press, 1997.

<sup>36</sup> David Kent, 'Decorative Bodies: The Significance of Convicts' Tattoos', *Journal of Australian Studies*, No. 53, 1997, pp. 78-85. Michelle Field & Timothy Millet (eds), *Convict Love Tokens: The leaden hearts the convicts left behind*, Kent Town, Wakefield Press, 1998.

<sup>37</sup> Bruce Hindmarsh, 'Scorched earth: contested power and divided loyalties on Midlands properties, 1820-1840', *Tasmanian Historical Journal*, Vol.6, No.2, 1999, pp. 63-80. See also Katie Febey, 'Who'll come a Walzing Matilda with me? Stock Theft and Colonial Relations in Van Diemen's Land', Thesis, Bachelor of Arts with Honours in History, School of History and Classics, University of Tasmania, 2002.

magistrates, show how punishment invaded all levels of the system and was integral to enforcing control as much as maintaining work outputs, even in quiet rural districts.

Finally a number of historians have questioned the place of the convict workforce within general colonial society and raised that difficult question in Australian history—can the convicts be called a working class? While most historians from the 1960s onwards have argued that no true working class emerged in Australia until the end of the nineteenth or even the early twentieth century, there is a tendency to revise this position and to re start the discussion based on Thompson's argument that the test of a class is its consciousness of itself and this can be determined by an examination of the historical phenomena.<sup>38</sup> This bypasses earlier Marxist arguments that economic variants were the most important indicator of a working class, who had to understand their position as the means of production and recognize their place in the class struggle.<sup>39</sup> Thompson's position enables the social and cultural context of the labouring class, its aspirations, attitudes, states of mind, actions, customs, work practices and responses to authority to be considered to determine if the group did have a consciousness of itself. Narrative and description can take the place of political or economic theory.

Macintyre in an overview of the later debate drew attention in particular to Irving's early attempt to address the issue of consciousness and how it might be defined in a way different from Thompson. Irving argued that a specific class consciousness was required that showed the labouring classes realized their separate interests, were aware that these were irreconcilable with the dominant class, understood the role of the state, and exhibited a high degree of solidarity. Macintyre argued these criteria were set too high and suggested that the nature of colonial pastoral capitalism, small scale manufacturing, close contacts between worker and employer, prosperity that enabled most wage demands to be met and a mindset of egalitarianism may have

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<sup>38</sup> E.P. Thompson, *The Making of the English Working Class*, Harmondsworth, Penguin, 1968, reprint 1977, pp. 9, 11,

<sup>39</sup> Within this general position earlier historians such as Brian Fitzpatrick, Robin Gollan, Ian Turner and Russell Ward argued that class consciousness failed to develop in the broad group of wage earners in the nineteenth century, was barely discernable in the Australian Labor Party and most obvious in the hegemony of some of the more radical unions of the twentieth century.

reframed Australian capitalism and enabled class consciousness to develop but to act differently from its European counterpart.<sup>40</sup>

Can any of this be discerned as early as the 1830s in Van Diemen's Land? In their 1992 revision of their earlier work Connell & Irving lean more towards the social construction of class and argue that class is not only a social group and structure, but also "a complex of emotions, of sympathies and antagonisms; and a complex of symbols, forms of speech, labels and codes." They also see it as "a social dynamic, a kind of historical process, in which a social world is transformed". Even so they were unwilling to claim that convict labourers constituted a working class in New South Wales.<sup>41</sup>

There can be no doubt that a labouring and working class existed in Van Diemen's Land from its time of settlement onwards and that this group of men and women were overwhelmingly convicts and emancipists, who at the end of the 1830s, constituted 75% of the population.<sup>42</sup> This study adopts the looser view of class as a social phenomena and throughout the examination of the varying convict work groups seeks to persuade that there are many examples that show the convict workforce exhibited a consciousness of its difference from employers based not so much on its unfree status but on its consciousness of its social customs, speech, attitudes, work practices and responses to authority that place it clearly within the framework of the British working class. This study supports Macintyre's hypothesis that the nature of pastoral capitalism and small manufacturing, sufficient periods of prosperity and the growing assertiveness of the convict work force enabled a working class consciousness to develop and seeks to persuade that this was evident even as early as the 1830s in Van Diemen's Land within the convict working class.

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<sup>40</sup> Stuart Macintyre, 'The Making of the Australian Working Class: An Historiographical Survey' in *Historical Studies*, Vol. 18, No. 71, October 1978, pp. 240, 249.

<sup>41</sup> R.W. Connell & T. H. Irving, *Class Structure in Australian History: poverty and progress*, Melbourne, Longman Cheshire, 1980, Reprint, Melbourne, Longman Cheshire, 1992, pp. 5-6, 69-70.

<sup>42</sup> L. Robson & M. Roe, *A Short History of Tasmania*, Melbourne, Oxford University Press, 1997, p. 18.



The thesis explores many of these issues by focusing closely on the Campbell Town police district to determine whether or not the general issues raised in the literature applied to a complex convict workforce that could be studied in some detail. My choice of the police district for the study was influenced by the availability of significant quantities of archival material that could be interrogated to provide quantitative data about regional convict workers.

The 1835 Campbell Town bench book provided the basic information about, not only the convicts working in the area in 1835, but also their employers, the free settler farmers.<sup>43</sup> As 1835 was the last full year of Lieutenant-Governor Arthur's administration, the assignment system that he had overseen for twelve years was fully evolved into its final form and therefore representative of the success or failure of assignment as a work placement system. The local police magistrate, John Whitefoord oversaw the court for the whole year, also providing some guarantee of consistency in its operations. Analysis of this source alone permitted much of the district's population to be mapped on a database. It also provided a complete set of records of all free, assigned and ticket of leave workers who were charged under either the convict regulations or the civil law. Although other historians have used bench book material they have mostly selected numbers of individual cases to illustrate particular points. In this study, I have employed a relational data base to provide complete sets of cases for all groups and charges, enabling clear answers to emerge about how common certain charges were for different groups of workers. Issues of work charges, drinking, prostitution or pregnancy, more serious assaults and civil charges can therefore be seen in the context of the district's complete law and order profile for the year, for all citizens living in the district. The clerk's notes on many of the cases provided more detailed insights into the relationships amongst convicts and between them and their employers. A small run of data was also found for the Court of Requests for 1835.<sup>44</sup>

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<sup>43</sup> LC 83/1, Records of cases heard and sentences imposed in the Magistrate's Court, Campbell Town, Van Diemen's Land, January 1835 to February 1836, AOT.

<sup>44</sup> POL 47/1, Records of cases heard and judgements in the Campbell Town Court of Requests, 1835, AOT.

In addition, the complete convict muster for the island for December 1835 was available.<sup>45</sup> This significant resource enabled me to trace the number of convict women working in the district and their distribution, as well as using it in other ways to answer questions about how common marriage was for serving female convicts from different ship cohorts and how many women at any one time were likely to be incarcerated. Monthly data sets were also available in the *Hobart Town Gazette* for 1835 for the numbers of women incarcerated in the female factories in Hobart and Launceston, the prison categories into which they were placed and the numbers of babies and children with them. This data enabled comparisons to be made between the pregnancy rates of female convicts across the island and within the district under study.

Absconding data was available weekly for all convicts in the *Hobart Town Gazette* for 1835 and an additional data set of this information was also available for the years 1833-34 as a result of an honors thesis undertaken by Matthew Loone.<sup>46</sup> These sources provided information about the absconding rate of different convict work groups across the island which provided a comparison with absconding rates within the district. It also recorded all ganged men who absconded in neighboring districts who frequently hid out in remote local areas.

Finally a useful short run of data existed about ticket of leave male workers in the district between 1835 and 1837.<sup>47</sup> This enabled new information to be extracted about their rates of employment during different times of the year, their locations, their importance in providing paid labour and their rates of self employment. This data included material eighteen months beyond Arthur's departure, but the assignment system continued relatively untouched until after the changes brought about by the Molesworth Commission in 1839, so I have concluded it is relevant to the period under study.

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<sup>45</sup> HO 10/47, General muster list for all male and female convicts who arrived in Van Diemen's Land, 1804 -35, AOT.

<sup>46</sup> Matthew Loone, 'Why Run? A Comparative Study of Convict Runaways in Van Diemen's Land, 1833 to 1834', Thesis, Bachelor of Arts with Honours in History, school of History and Classics, University of Tasmania, July 2004.

<sup>47</sup> POL 47/1, Ticket of leave monthly muster returns, Campbell Town police office, September 1835 to July 1837, AOT.

The study has the overall aim of bringing into sharper focus the lives of the diverse group of convict workers in a rural district at the end of the assignment period who were very much part of the community in which they worked. In the following chapters it questions how they sustained their own working class traditions, negotiated the dangerous ground of being unfree workers and created whatever opportunities they could to retain as much personal freedom as their circumstances allowed. The following chapter summary outlines the detailed questions asked by the study and the lines of enquiry pursued.

Chapter one will introduce the district and describes how the physical context of the region had been transformed by human activity. Firstly the Aboriginal landscape of low density woodland and open grassy plains that Lycett had sketched suggesting an arcadia waiting empty for the new settlers with capital who were arriving to farm it; secondly the landscape of occupation that Lieutenant-Governor Arthur imposed on it, consisting of soldiers, police, magistrates and the system of jails, barracks and police posts meant to control it; and finally a clandestine landscape of resistance known to the convicts and where they could socialize on back roads and side streets, in safe huts and sly grog shops and the odd corners of farms. The terrain and the back roads cracked open Arthur's attempts at complete control.

Chapter two asks about the backgrounds of the local magistrates and what their relationships were to the governor, the police magistrate, to each other? It contrasts their power with that of their peers in New South Wales and explores the mechanisms used to control them. It asks why some local landowners accepted a commission from the governor and others did not. At a local level it asks what they were like as employers of convict labour by exploring the use they made of the courts for their own assigned servants. In turn it questions how they were viewed by local people by looking at letters in the press that reported on their actions. Finally it explains why so many of them sold up and returned home.

Chapter three introduces the convict police who were generally disliked by both convicts and the middle class and seen as different from the general run of convicts

as well as corrupt. The chapter asks whether the local police were different from the general cohort of male convicts in respect to a number of documented criteria. It asks if there is sufficient evidence to suggest that police were recruited directly from the transport ships on arrival, a commonly held idea, and speculates about the ability of the local police magistrate to influence the choice of men for his district. The chapter also seeks to document the claims of police corruption made by colonial newspapers and looks at other issues which may have influenced some papers to take this position. Were these accusations of corruption warranted in relation to the local police? How strictly did the police magistrate control his men and what sorts of charges did he bring against them? Throughout, it explores the question of whether the convict police were really very different from the men working in the new British police forces established at the same time.

Few historians have looked at the job the convict police were expected to do. Chapter four challenges the view that convict police did little more than surveillance of the roads and arresting drunks and explores the expanding role of the police magistrate's office. It identifies weaknesses in senior staffing and the turnover of men and officers. It uses a series of bench book cases to identify the difficulties convict police experienced in doing their job and the stresses they constantly faced from the hostility of all sections of the community.

Not all convicts in the district were assigned there. Running from road parties was common throughout this period and many ganged men from road works outside the district made their way there attracted by the seclusion of the remote river valleys and safe huts where they could hide for days or weeks. Chapter five looks at the absconding rates for gangs across the island and explores who ran and why. It speculates about how the men got the cash they needed to abscond, which was the incentive for hut keepers to shelter them. The strong hut culture in the district is explored as well through an examination of their uses as drinking, gambling sites and a means of providing accommodation. The chapter considers how some absconders were able to remain free for weeks or even years. Several cases from the local magistrate's court provide insights into the commercial relationships between the absconders and hut keepers, including several in which the whole industry of

sheltering absconders was exposed in the Isis valley and even substantial land owners were shamed in court for not keeping a stricter control over the back blocks of their farms.

Chapter six considers the work of the Ross Bridge gang is examined to determine to what extent they integrated themselves into the social and economic life of the village and its hinterland. Their commercial dealings with settlers reflected the growing market needs for goods and services and the ways in which a government gang could function like a free market construction group to satisfy rational local demand. Their integrated supply relationships with free tradesmen from Ross revealed much about the ways free and convict workers ignored artificial boundaries between themselves. Other smaller local gangs are also examined to determine to what extent these conditions existed within them. The punishments imposed on several local gangs are scrutinized and the role and extent of punishments imposed by the police magistrate is discussed.

It was within the sphere of domestic work that some key shifts could be noticed between masters and their female domestic servants. Chapter seven looks at convict women's skills and how they were distributed across the island and within the Campbell Town district to specific types of employers. The quality of their work is deduced from the numbers of charges masters brought against them for poor work or uncooperative attitudes, and some comparisons are made between the different situation in New South Wales and Van Diemen's Land. The ability of the settlers' wives to organize a household and servants is investigated as an important factor in managing female domestic servants. It was within the domestic sphere that class boundaries came to be most blurred as each group had many opportunities to judge the other. Seeing the women of the household having to help with domestic, farm or commercial work, and knowing the settler families to be self-made emboldened their convict servants to challenge the pretension that some claimed to be gentry. The social status of small free shop keepers and commercial families became increasingly doubtful too as emancipists started to establish similar businesses creating proof that upwards mobility was possible for ambitious convicts. The chapter explores how

these small domestic dramas were indicative of shifts in the attitudes of employers and their domestic servants to each other.

Chapter eight explores the sexual and social behaviors of the local convict women. It canvasses reasons for the general good behavior of the women including the shift in working class behavior towards self help and the possibilities that women were electing to remain sexually inactive or using known methods of contraception. The low marriage rates amongst convict women while under sentence are discussed as well as the major effect it had on the population growth of the island. A close look is taken at the low rates of absconding amongst women and the complex reasons for it, as well as the low rates of charges for common law offences. The groups of employers most likely to charge their female servants with offences are discussed. Why were high rates of imprisonment imposed on female convicts, and how were the middle class able to accept the severe punishment of convict women while practicing high levels of chivalry towards their own women?

The final chapter examines the leisure and work of the assigned male workforce of the district. The drinking culture of male workers in the villages and on farms is investigated with a close look at the Markham case that teases out how rum, cash and a hierarchy of farm workers both free and unfree, could create a complex mix of site issues that had to be managed by overseers. The working year of a mixed farm is described to illustrate the constant outdoor labour of assigned men, which set a context for their desire to limit their hours and retain control over their leisure. Bench book data answers questions about their types and levels of resistance to their forced labour and the punishments handed down by the local magistrates.

Few historians have looked at the ticket of leave men as a group of workers, the other major group of male convict employees. The final chapter also considers their access to employment in the district for a period of 22 months, during which time the economy started to slow. Their rates of full-time, part-time work and unemployment are examined, as well as the numbers of self employed men. The chapter asks whether the crime rate rose amongst those who appeared to have no work, how

mobile the group appeared to be and speculates about unrecorded work opportunities that some may have accessed.

Finally appendices are provided that give more detailed statistics about the total free and convict populations and the annual returns of all convicts between 1833 and 1836, as well as charges against all male convicts residing in the Campbell Town district in 1835. More information is provided about the Midlands area through comparisons between the police districts of Campbell Town, Norfolk Plains and Oatlands. The acres granted in each, population estimates, general wealth comparisons and crops and livestock numbers illustrate the predominant place of the Campbell Town district in the economy of the Midlands. Appendices also list the police magistrates in these districts as well as a complete list of the non-stipendiary magistrates in the Campbell Town district. Lastly the location and strength of military detachments in the Campbell Town district is provided to demonstrate the significance of the military as an instrument of control.

## Chapter 1: The social landscapes of the Midlands.

Following the publication of several immigrants' guides, settlers with capital began to relocate to the colony of Van Diemen's Land from the early 1820s onwards. It was during this period that the first groups of farming pioneers arrived and settled in what became the Campbell Town Police District, that area in the Midlands, bounded by the Lower Macquarie, Blackmans, Lake, South Esk and Break O Day rivers.<sup>1</sup> On presenting their Letters of Approval for a land grant from the Colonial Office in London, they were generally granted one acre of land for every pound in capital or goods they brought with them, to a maximum of around 3000 acres. Most settlers arrived with between £2000 and £3000 in cash and had one year to settle on the grant and make improvements or else the grant lapsed.

It is still possible to see that landscape through the eyes of the colonial artist Joseph Lycett, whose hand colored etchings, depicted the journey from Hobart through the Campbell Town Police District in the 1820s and recorded an almost empty Arcadian landscape, just at the point that it was being eroded by the forces of European settlement.<sup>2</sup> If we take this metaphoric journey with him we can see the type of pristine new world he tried to convey. His benign golden view from near the top of Constitution Hill on the Main Road leading to Campbell Town looks back over the natural pastures of the Bagdad Plains, almost hiding the insignificant dots of roadside houses where travelers could find accommodation.<sup>3</sup> He stopped further along at the Jordan River to admire the Jericho Plains on his left, the low wooded slope of Spring

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<sup>1</sup> *Van Diemen's Land, 1840 Police Districts*, (London, J Arrowsmith), Archives of the State Library of Victoria.

<sup>2</sup> Joseph Lycett was an artist and convicted forger who arrived in NSW in 1811, sentenced to transportation for 14 years. He traveled in NSW and may have traveled to VDL in the early 1820s preparing a book of Australian views, which were printed and colored in London and appeared in 1825 as *Views in Australia or New South Wales and Van Diemen's Land Delineated*. Recent scholarship has been unable to confirm whether Lycett personally traveled to Van Diemen's Land, or used sketches prepared by another person such as the early surveyor, George William Evans, who completed surveys of parts of the island in 1812-1813. For this point of view see: John McPhee (ed), *Joseph Lycett: Convict Artist*, Sydney, Historic Houses Trust of New South Wales, 2006. Van Diemen's Land was occupied by Tasmanian Aborigines, but their presence was not recorded by Lycett.

<sup>3</sup> J. Lycett, *Views in Australia or New South Wales & Van Diemen's Land delineated, in fifty views, with descriptive letter prefs.*, first published London, J. Souter, 1824-1825, (Facsimile edition, Melbourne, Thomas Nelson, 1971), View 15, *View from near the Top of Constitution Hill*, ( Pages are not numbered).



Hill and the vaguely disturbing wilder hills rising higher in the mid ground to the top of Table Mountain.<sup>4</sup> Despite his assurances of the novelty and abundance of wildlife on these plains, it is his reference to the bushranger Lemon, “the terror of travelers who passed this way”, who hid out in the wetlands of the mid distance of this scene that creates the sense of unease about what was hidden in those densely wooded slopes and valleys.<sup>5</sup>

He traveled on safely through the last of the hills and stopped near the southern boundary of the Campbell Town district. From the hilltop he could look at the reassuringly open Salt Pan Plains to his right.<sup>6</sup> Below him, the dirt road became rougher and narrower as it snaked across the plains ahead which were broad and welcoming. The odd bump of Grimes Sugarloaf and the two salt pools were clearly visible. Sublime hills surrounded the plains and it would take many miles before a traveler would have to enter the forbidding Epping Forest which was just visible on the horizon. While Lycett wrote about the many sheep and cattle grazing there, they are quite invisible in this scene.

Lycett paused next at the Ford across the Macquarie River.<sup>7</sup> He picked out the tiny shapes of the two Government dwellings, their roofs and chimneys just discernable behind a small rise. One was where the Superintendent of the Government herds and his men were housed, and near it was the small barracks for the Corporal’s party that was stationed at Ross. A rough log and dirt bridge was already completed just below the ford and out of sight in the picture. Two travelers on horseback had chosen the ford crossing. Lycett traveled through the projected site of Ross village and crossed the rich Argyle Plains, only to stop on the road past Campbell Town where he could sketch the Macquarie Plains with the massive Tasman’s peak in the distance.<sup>8</sup> For the first time, he drew one of the herds of sheep so prolific on these plains, but he

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<sup>4</sup> *Ibid*, image and text, View 17, *The Table Mountain*. (See these four illustrations following p.24.)

<sup>5</sup> *Ibid*, image & text, View 17, *The Table Mountain*. Lycett told his readers that Lemon had “committed many atrocious murders on this spot...it being his custom to conceal himself on some elevated point of land, and, ...rush down upon his unprepared victims, to plunder them; and, if the slightest resistance was offered, he instantly murdered them.”

<sup>6</sup> *Ibid*, image and text, View 19, *Salt Pan Plains*.

<sup>7</sup> *Ibid*, image and text, View 21, *View from the Macquarie River Near the Ford at Argyle Plains*.

<sup>8</sup> *Ibid*, image and text, View 23, *View of Tasman’s Peak from Macquarie Plains*

neglected to portray any of the many convict herdsmen's or storekeepers' huts that he mentioned were scattered through the area.

While Lycett hinted at the presence of huts, sheep and cattle, convict herdsmen, hunting parties, bushrangers, soldiers and government officials, they largely remained subordinated to his visual theme of the last bloom of Arcadia before it was swamped by colonial occupation. Yet this passing Arcadia had other significant omissions. It was, for Lycett, an empty landscape already devoid of its traditional owners, the Tasmanian Aborigines, who had created the park-like open grass lands with their fire farming techniques. It was already metamorphosing into an idealized pastoral landscape that pushed aside the sublime and wild mountains and their invisible custodians.<sup>9</sup> Other travelers along this same main road brought some scenes of the new culture into sharper focus. Edward Curr recoiled from the rough huts along the roads where accommodation could be sought. As he described it:

The cottage is usually built of sods or logs or mud and thatched with straw, a few logs laid together in the style of an American fence, perhaps compose the pig-sty; and an open detached yard of the same materials, serves to contain the working cattle. These are in the majority of cases the only features of a farm house in Van Diemen's Land, unless, indeed, we think it proper to add the disgusting appearance of wool, bones, sheepskins, wasted manure, and the confused heap of ploughs, harrows, carts, firewood, and water casks, with a few quarters of mutton or kangaroo hanging on a neighboring tree, and a numerous tribe of dogs and idlers; the former barking, the latter lounging about. Everything betokens waste and disorder.<sup>10</sup>

From that time on, the sublime would exist side by side with the shambolic as the hunting grounds of the traditional owners morphed into the farming landscape of settler society. Curr supported the growth of a wealthier settler class that would

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<sup>9</sup> David Hansen, *John Glover and the Colonial Picturesque*, (Hobart, Tasmanian Museum & Art Gallery with Art Exhibitions Australia Ltd, 2003), p. 132. Aborigines still inhabited the Mills Plains area on the South Esk River until at least 1832 – 33. Glover made many local sketches of them and incorporated some of these sketches into some of his paintings of the Mills Plains area. George Taylor Jn. a settler's son was killed by Aborigines near Valleyfield farm on the Macquarie River in 1826 – Correspondence Files for George Taylor, *Colonial Times*, 17 November 1826. See also James Cubbison Sutherland, *Diary*, NS61/1, AOT for his numerous peaceful encounters with Aborigines on his farm between 1823-1828.

<sup>10</sup> Curr Edward, *An Account of the Colony of Van Diemen's Land principally designed for the use of Emigrants*, (London, George Cowie, 1824), pp. 14–15.

create well managed farms, instead of the haphazard small farmsteads of the emancipists that Lycett had airbrushed out of his views.<sup>11</sup> Ironically the early homes of the new settlers would be just as roughly built as the one Curr described, although generally a good deal tidier.<sup>12</sup>

Yet only ten years were to pass before another pattern had been imposed upon the landscape, even though its seeds were already growing when Lycett first drew his scenes. The Bigge Report, published by 1823, reviewed the previous ten years of Macquarie's management of the convict system in New South Wales and proposed major changes. Convicts of both sexes would be more closely managed than previously. They would serve a specific number of years of their sentence working for settlers before being eligible for tickets of leave. Their rations and allowances for clothing and other necessities were specified and they would be required to live in barracks on the farms or in those provided by the administration for all government convicts.<sup>13</sup> Female convicts could no longer marry on arriving in the colony, but had to work at least three years for settlers or in a government female factory.<sup>14</sup> By shifting the responsibility of supervision and the cost of their keep onto settlers, the convict system was supposed to cost less to Britain. At the same time "respectable Settlers, Men of real Capital" and not "needy adventurers" would be encouraged to migrate to the colonies attracted by cheap land and cheap convict labour.<sup>15</sup> Lieutenant-Governor George Arthur, after arriving in Van Diemen's Land in 1824, had to implement the new policies of the assignment system that grew out of the Bigge Report. His task was to impose order and control on the chaotic spread of settlers, convicts and animals that quickly filled Lycett's pastures along the Main Road of Van Diemen's Land.<sup>16</sup> Prior to 1823 only 47,180 acres of crown land had been granted to settlers. By the end of 1823 this had increased to over 400,000 acres,

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<sup>11</sup> Curr, *Account of the Colony of VDL*, pp. 56-58.

<sup>12</sup> David Burn, *A Picture of Van Diemen's Land*, 1840-41, (Hobart, Cat & Fiddle Press edition, 1973), pp.112-113.

<sup>13</sup> Stephen Nicholas (ed), *Convict Workers, reinterpreting Australia's past*, Cambridge, Cambridge University Press, pp. 183-185, 189-190.

<sup>14</sup> Bigge J.T., *Report of the Commissioner of Inquiry into the state of the colony of New South Wales*, (London, House of Commons, 1822), Vol.1, pp. 167 -168.

<sup>15</sup> John Macarthur to Bigge on 21 December 1821, reproduced in *Sources of Australian History*, M. Clark (ed.), (London, Oxford University Press, 1963), p 135.

<sup>16</sup> G. Hawley Stancombe, *Highway in Van Diemen's Land*, (Launceston, Foot & Playstead, third edition, 1974), p. 1. From here on, the name Main Road will be for used for the Hobart to Launceston road, as this was its common name at the time.

as settlers with capital started to arrive.<sup>17</sup> By the end of 1824 the choicest land in the Campbell Town Police District had already been selected by the new arrivals. The farming landscape created by the new settlers with capital is the next of the several landscapes of the 1830s that this thesis will primarily be concerned with, a landscape that did not altogether obliterate Lycett's Arcadia, but was layered on top of it.

If a traveler rode along the same route through the Campbell Town police district in the early 1830s, that Lycett had depicted a decade earlier, he would experience a landscape under the forces of British occupation, and from Arthur's point of view, under his control. A government presence was in view everywhere. Police and military detachments were strategically deployed throughout the district; magistrates' farms were within a few miles of each other and road gangs and their compounds could be found at intervals along the major roads. Court houses, police barracks and fenced lock ups were prominently located in many of the small country villages. The engagement with the Indigenous inhabitants was all but over with only small pockets of Aborigines remaining in some of the remote parts of the district or surviving as isolated individuals or as the protected clients of a few settlers.<sup>18</sup> Nevertheless the settlers still feared the Aborigines, despite the general contemporary belief that only 300 to 400 Aborigines remained.<sup>19</sup> But as the fear of Aborigines receded during the 1830s, Arthur's colonial government tightened its control over the 1100 convicts who worked as labourers and servants for the 1000 settlers of the Campbell Town police district. Livestock theft continued to be a major problem for settlers who now

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<sup>17</sup> Sharon Morgan, *Land Settlement in Early Tasmania: Creating an Antipodean England*, (Cambridge, Cambridge University Press, 1992), p.19.

<sup>18</sup> Hansen, *John Glover and the Colonial Picturesque*, pp. 102-103, 114. It is not within the scope of this thesis to engage in the current debate about the causes of the deaths of almost all of the Indigenous population of Van Diemen's Land, whether chiefly murdered by settlers [Reynolds, Ryan] or through contact with European diseases and starvation [Windschuttle]. In the Mills Plains area on the north side of the South Esk River, some Aboriginal people of the Ben Lomond tribes were reportedly still living in their traditional way in 1832. John Glover, the painter, who lived on the Nile River, discussed encounters with members of local Aborigine groups from 1831 to 1833. He climbed Ben Lomond to try and find them and met at least 3 women who appeared to be local women around 1831 -33. See also James Ross, *The Settler in Van Diemen's Land*, (first appeared in Ross's Almanack of 1836), reprinted by Marsh Walsh Publishing, Melbourne, 1975, p. 25. Ross told the story a lone Aboriginal man who was permitted to remain on a settler's farm and given rations. He was asked to provide popular displays for guests of his perfect ability to blend invisibly into the landscape. Guests would cover their eyes on the verandah as he stood in an almost bare paddock in front of them; when they looked again, he could not be seen, until he signaled his presence to their applause. This story is recalled by Ross, totally without irony, despite its deeply disturbing symbolism.

<sup>19</sup> James Ross, *Hobart Town Almanack for the Year 1832*, (Hobart, 1832), p.170.

attributed it to convicts, ticket-of-leave men and emancipists. Soldiers from the 63<sup>rd</sup>, 57<sup>th</sup>, 17<sup>th</sup> Regiments and the 4<sup>th</sup> Foot were deployed to occupy and control the district, during the first few years of the 1830s. A substantial deployment of between 20 and 40 soldiers were always located at the village of Ross.<sup>20</sup> In 1830 two or three soldiers were also stationed at Campbell Town, Blackman's River, Auburn farm on the Isis River, Lake River and at Mr. Scott's farm and the farms of two justices of the peace – Hezekial Harrison on the Macquarie and James Sutherland on the Isis.

As the numbers of soldiers in the District declined from around 110 to 60 men, they were consolidated over the next few years at four locations. In 1831 there were 28 soldiers distributed between Auburn, Break o' Day Plains and St Pauls Plains, all areas on either the Isis or South Esk Rivers, where there may have still been Aborigines residing nearby.<sup>21</sup> The following year some of these soldiers were redeployed to the remote settlements of Avoca and Fingal, further along the South Esk Valley.<sup>22</sup> The isolated tracks and bridle paths that followed the rivers or cut across country to the new settlements were patrolled by contingents of redcoats on foot and their white tents and rough wooden barracks and stables were erected wherever they were deployed. But while their visibility was high in parts of the district, it is doubtful if they had a great impact in protecting settlers from Aboriginal attacks, bushrangers or mutinous convicts. By the time news of an attack reached a military outpost and they traveled to assist, the attack had usually passed. For all intents and purposes, the settlers and their convict servants had to defend themselves as well as they could.<sup>23</sup> Soldiers appeared to act more as a deterrent and were used to track perpetrators after the event.<sup>24</sup> They were gradually replaced by convict police as the fear of the Aboriginal population declined.

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<sup>20</sup> Op Cit., *Hobart Almanacks* for 1829, 1830, 1831, 1832. In Ross the numbers of soldiers varied from year to year as their deployment in other parts of the district appeared flexible eg 1829 – 47 soldiers, 1830 – 34 men, 1831 – 39 men and 1832 – 20 men. The building of the Ross Bridge by a large gang of convict labourers and tradesmen in the early 1830s accounted for the military presence, as well as possible attacks on settlers by Aborigines or bushrangers.

<sup>21</sup> James Ross, *Hobart Almanack*, 1832, p. 78.

<sup>22</sup> Op cit., *Hobart Almanack*, 1832, p.56.

<sup>23</sup> James Cubbison Sutherland, *Diary*, 8 June 1826, NS61/1, AOT. It took several days for soldiers to march up from Auburn on the lower Isis River, when local coroner J. C. Sutherland called for them, after a party of bushrangers attacked his farm and the neighboring farms belonging to the Ruffy and Gatenby families.

<sup>24</sup> *Ibid*, On 29 September 1826 and 13 to 26 October 1826 further attacks were made on farms on the Isis by other groups of bushrangers which were defended by settlers and their servants. In these cases

As the soldiers were withdrawn into a smaller number of larger camps in settlements on the more isolated fringes of the district, the deployment of convict police became more critical. They were moved into the pacified areas after the military moved out, from where they could control the main roads and tracks and give support to some of the isolated non stipendiary magistrates. Their role was to be a deterrent to rebellious convict workers and to round up runaways. While Campbell Town and Ross villages continued to have the largest contingents of police, four constables were also located at Snake Banks and Avoca, to control the roads to Launceston and the east coast and one more constable was stationed at Fingal.<sup>25</sup> As well, individual constables were stationed in bush huts or on settlers' farms on the Lake, Isis and Macquarie Rivers. Pairs were similarly housed at the Georges River and the Campbell Town Tiers, rough wooded country that provided a refuge for convict runaways.<sup>26</sup>

Throughout the 1830s about 30 constables were scattered throughout the district and between 60 and 110 soldiers in greater concentrations, provided support at Ross and the remote parts of the South Esk and Isis river valleys. This represented about one constable or soldier for every eight to twelve convicts in the district. This was one of the main differences between the use of control in New South Wales and Van Diemen's Land. In New South Wales, as settlement expanded over the Blue Mountains, settlers and convicts moved rapidly into the plains beyond, effectively moving outside the control of sparsely scattered magistrates and small numbers of police.<sup>27</sup>

On the surface, this deployment of military peace keepers looked formidable, particularly once the additional superstructure of civil control is considered. By the mid 1830s a military force of 65 soldiers and officers, and a police establishment of

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soldiers arrived after the initial attacks, but were used to hunt down the bushrangers in the days that followed.

<sup>25</sup> Pol 35, 'Monthly Destination of the Constabulary in the Campbell Town District for the Month ending 30 November 1837' in *Miscellaneous Documents from the Police Magistrates' Collection 1827ff*, AOT. Campbell Town had 1 Chief District Constable, 8 police, 1 flagellator, and Ross had 1 District Constable and 6 police.

<sup>26</sup> *Ibid*, All told, 30 police, 3 special constables, a flagellator, 2 officers in charge and a clerk were deployed in 1837 throughout the District.

<sup>27</sup> David Andrew Roberts, "A change of place: illegal movement on the Bathurst frontier, 1822 – 1825", *Journal of Australian Colonial History*, Vol. 7, 2005, pp. 97–100.

43 protected a district of around 2000 convict and free settlers.<sup>28</sup> This represented a police presence of 1/46 residents, while in rural New South Wales the police ratio was 1/344, and in rural Britain it was 1/2700. With this concentration of police it is easy to see the police establishment and the magistrate's court as "machines for social control" especially as they could also draw upon eleven non stipendiary magistrates who were large land owners and some were former military officers.<sup>29</sup> Furthermore the local magistrates were located throughout the police district, even in the most remote valleys, so that their neighbors could more easily access court procedures against uncooperative convict servants. For example, magistrates James Sutherland and Charles Viveash were landholders on the Isis River and Captains William Serjeantson and James Crear were located on the South Esk River, while the Waterloo veteran, Major William Gray, was settled at the remote St Pauls Plains. North of Campbell Town on the Main Road, Captain William Wood and Richard Willis farmed on either side of Epping Forest, an area notorious for bushrangers. In the more settled areas around Campbell Town and Ross, John Leake, Benjamin Horne, Henry Jellicoe and the elderly and irascible Lieutenant Samuel Hill were available to assist with court sittings.

The Police Magistrate was in charge of the courts and the complex infrastructure of local magistrates, police and jails. He also loosely controlled a variety of other convict civil appointments such as postmen, javelin men (jail guards), watch house keepers and government store keepers. His office was in Campbell Town in the building that also housed a court room and clerk's room, situated near the jail in the government compound on Bridge Street.

Campbell Town itself sat like a garrison town, the centre of the civil and military deployments. It had grown from an inconspicuous collection of huts with one brick dwelling in the mid 1820s, to an adequate supply town containing "a Court House, Gaol, the residence of the district Police Magistrate, two tolerable inns, two or three public houses, a few labourers' and mechanics' cottages, and two extensive stores,

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<sup>28</sup> James Ross, *Van Diemen's Land Annual Hobart Town Almanack*, 1832, p. 56, for deployment of soldiers in Ross. *Almanack* for 1835, p. 18 for a total police establishment of 43 officers and police.

<sup>29</sup> Michael Sturma, *Vice in a Vicious Society. Crime and Convicts in Mid-Nineteenth Century in New South Wales*, St. Lucia, University of Queensland Press, 1983, p. 168 and p. 124.

where may be obtained all articles in general demand”.<sup>30</sup> The government compound dominated Bridge Street by taking up a whole block from the Elizabeth River to King Street. Although it occupied a large tract of land in the centre of the village, a plan of the existing compound and some of its buildings from the late 1830s shows a number of makeshift brick and log buildings along Bridge Street that failed to adequately symbolize the power of the civil jurisdiction to the local population and travelers riding down the main street.<sup>31</sup>

The jail straggled along from the King Street corner, constructed from a continuous frontage of several jail barracks, including two sleeping wards, a surgeon’s rooms, a watchman’s hut and a general mess room. Behind these were the penitentiary yards, a carpenters shop, a bathhouse and boilers, an assignable ward, an exempt ward and a hospital. Outdoor fireplaces and privies were accessible from the exercise yards. Three solitary cells were located in the government lumber yard in the large paddock behind the jail. The pound was along side the lumber yard in King Street together with a small hut for two constable pound keepers on its boundary.

The only two storey brick building in the compound, and the only building with a ceiling, was separated from the jail by an open yard and fronted Bridge Street. Another five roomed cottage was directly behind it across a wide yard. Although the existing site plan names these buildings as the Road Offices, clerk’s rooms and dwelling, it is likely these were once the officers’ quarters and soldiers’ barracks of the regiment assigned to the town in the early 1830s.

The Police Office also had a frontage on Bridge Street. The Police Magistrate’s offices were located at the back of the building and a long room twelve by thirty-two foot, at one end of the building, was possibly the original Magistrate’s Court. A

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<sup>30</sup> Henry Walter Parker, *The Rise, Progress and Present State of Van Diemen’s Land with advice to emigrants*, (London, J. Cross, 1833), pp. 112-113. See also, Suzanne Lester, *Spring Bay, A Social History*, (Hobart, Artemis, 1994), p. 190, for a photo of a vertical split-log walled hut with a bark roof. Although this photo purports to be c. 1912, the materials and design are typical of sketches of simple huts of the 1830s and 1840s found in Public Works Department Plans. See PWD 266/1715, & 1716 Plans of a constable’s hut and a watch house at Snake Banks police station, 1838, AOT.

<sup>31</sup> Maps. PWD 266/ 1190, AOT. *Stations at Campbell Town*, no date but located with a set of maps that show planned extensions to the jail in the early 1840s.



timber building of a similar size was awkwardly attached to the back of the court and named the Police Clerk's quarters.<sup>32</sup>

Further jail precincts, mostly empty paddocks, continued down Bridge Street. Two sets of police barracks appear to have been constructed in these paddocks behind the jail, some time in the 1830s.<sup>33</sup> Most likely these were split log huts able to house the sleeping barracks and mess room of the six to ten convict constables assigned to duty in Campbell Town. Various other temporary huts, not recorded in these site maps, may have housed the convict post men, the jail guards or javelin men and the flagellator. A large fenced vegetable garden and the government paddock for police and soldiers' horses stretched behind these buildings. As in many of the government compounds in rural villages during the assignment period, the official buildings were ramshackle, straggling and temporary, without any discernable architectural value. Visually they symbolized the impoverishment of the convict department and the barely adequate control it exercised over the convicts. Even the local jailer, Thomas Hughes, complained to no avail about the ruinous state of the Campbell Town jail, which had gaps so wide between the split logs in the walls that a prisoner could step between them.<sup>34</sup>

But it was the spaces in between these sites of power and lines of control that are the most interesting. An army of occupation, both military and civil, always has its weak points. The settlers' farms were squeezed in between the control lines of police outposts, soldiers and magistrates and their response to this show of force was always ambiguous. They were middle class small capitalists and they initially welcomed the protection of the soldiers and police from both the indigenous people and their more unruly convict workers, but at the same time many settlers believed in the contemporary political and social reforms of their homeland and so forged a different cultural response to both the military occupation, which had always been anathema to British people, and the unrepresentative civil administration of

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<sup>32</sup> Maps, PWD 266/ 1191 Police Offices.

<sup>33</sup> Maps, PWD 266/ 1187, 1188. Maps are dated 1845 and show proposed extensions to the jail. It is not clear if the constables barracks and jailer's house drawn in these site plans were part of the extensions or already existing buildings.

<sup>34</sup> CSO1/180/4339, Thomas Hughes to Thomas Banister, sheriff, 12 December 1833, p.177; and Thomas Hughes to Thomas Bannister, sheriff, 20 March 1834, p.183.

Lieutenant-Governor Arthur. This became especially critical when they saw their own personal liberties proscribed, and realized that the Aboriginal threat had been removed and most of their convict workers were quite similar to the men and women they had employed in Britain and were not so great a threat to their safety as they had first believed.<sup>35</sup> In effect, they argued that they were forced to endure a curtailment of their civil liberties for a protection that they no longer needed. The smartest employers quickly understood that the best work came from men and women who were offered good conditions and so indulgences of extra rations and other benefits were used to extract labour from assigned servants.<sup>36</sup>

Their convict workers were quick to notice and explore the gaps and to test the edges of the power that was ranged against them and to pass this knowledge on to each other. They came to understand that despite the relatively high ratio of police and soldiers to convicts, compared to New South Wales, convicts could still exercise considerable autonomy. The 108 soldiers and police were insufficient to lock down the district and exert complete control over the convict population of around 1200 men and women. The farms and their convict workforces were too thinly spread over too large an area. The terrain also defeated this purpose. Broad pastures gave way to hills and steep mountains covered in light scrub or uncut forests. Too many spaces existed where men could travel and meet unseen by the authority that tried to control them. This resistance to authority and control represented the third landscape of the district. This was the landscape of the safe huts and back roads, where the sheep stealers, the fencers of stolen goods, the traders, the sly grog sellers and others running small clandestine cash businesses could carry on uninterrupted by the gaze of authority. It was in these spaces that convicts could take their leisure or conduct

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<sup>35</sup> William Thomas Parramore, *The Parramore letters : letters from William Thomas Parramore, sometime private secretary to Lieutenant Governor Arthur of Van Diemen's Land, to Thirza Cropper, his fiancée in Europe and England, the majority from 1823-1825*, transcribed and edited by D.C. Shelton, Epping, New South Wales, D. & C. Shelton, 1993, p. 23. After being initially fearful about how the family could control convict labourers, William Parramore quickly expressed more confidence: "I hope we shall be able to manage the two (convicts) without severity; indeed I think the men will be almost as manageable as English labourers. In town we always found them very civil..."

<sup>36</sup> Great Britain, Parliament, House of Commons, Select Committee on Transportation, *Report from the Select Committee of the House of Commons on Transportation*, Sir William Molesworth, chairman of the committee, (Adelaide, Libraries Board of South Australia, 1967), Vol. 1, pp. 115-121.

their illicit transactions to buy themselves a future, some flash clothes or grog.<sup>37</sup> Although convicts were officially not allowed to have money, many subverted this and obtained cash either illicitly or through conspiring with their employers to negotiate bonus payments in cash and kind for extra work at harvest. Even some ganged men went out and worked for cash on weekends. Cash knew no boundaries; it flowed everywhere, through the official landscape of occupation and the hidden landscape of the convict world. It became an important instrument of freedom for convicts that subverted the assignment system and helped some to reestablish some control over their lives.

This landscape existed on the edge of farms, in the backyards of shops and inns and in the side streets of villages. It moved along the back tracks where the police and soldiers did not often patrol and through the scrub and hills behind the farms. This landscape created new lines of power in-between those created by authority and was not only one of resistance to power, but also an affirmation of a new type of life being forged out of a combination of convict working class culture and desires that interacted with the farmers' aspirations for wealth.

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<sup>37</sup> Jane Elliott, 'Was there a Convict Dandy? Convict Consumer Interests in Sydney, 1788-1815', *Australian Historical Studies*, No. 104, April 1995, pp. 373-392.

1. View From Constitution Hill



**Joseph Lycett 1824**

**1. View From Constitution Hill**

## 2. The Table Mountain



**Joseph Lycett 1824**

**2. The Table Mountain**



### 3. Salt Pan Plain



**3. Salt Pan Plain**

**Joseph Lycett 1824**

4. View On Macquarie River



**Joseph Lycett 1824**

**4. View On Macquarie River**

## Chapter 2: The Magistrates: agents of the machine and gentlemen farmers.

The first generation of free settlers with capital who arrived in the 1820s were largely drawn from that part of the British middle class who saw a reduced future for themselves in the post Napoleonic period as the post war economy slowed.<sup>1</sup> Their modest capital, most came with between £1000 to £3000 in cash and goods, was not enough to guarantee their families' continued prosperity in Britain, but combined with the lure of land grants in Van Diemen's Land, might provide the means to establish a prosperous future for them and their children. They were drawn from a wide range of different backgrounds: some were merchants; others were bankers, small manufacturers or half-pay naval and army officers. Very few of them had farming experience and the experience they possessed would be tested by the climate, soils, workforce, restrictive colonial laws, embryonic banking infrastructure and shortage of official coinage.

All would start with their grant of one acre per pound of certified capital, but many would not succeed, making space for the successful to buy out those who failed and increase their holdings.<sup>2</sup> By the end of the 1830s, this process had ensured that some, who had started with 2,500 acres, fifteen or so years earlier, owned 5000 acres and leased as much again.<sup>3</sup> This was an exceptional period of growth and opportunity for the Midlands settlers and by 1840, the first generation of settler society had completed its task: the successful had established their estates, although much of this success could be put down to the physical work of their convict workforces.

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<sup>1</sup> Leonore Davidoff & Catherine Hall, *Family Fortunes: men and women of the English middle class 1780-1850*, (London, Hutchinson, 1887), *passim*, ch.1.

<sup>2</sup> Anne McKay (ed), *Journals of the Land Commissioners for Van Diemen's Land 1826 – 1828*, (Hobart, University of Tasmania, 1962), *passim*, August to October 1826 entries. These entries include land along the Isis, Macquarie, South Esk and St Pauls rivers in the Campbell Town police district. The whole journal provided numerous examples of settlers selling their land grant to newcomers, either to take profits from speculation rather than farming, or because their initial attempts at farming had failed and they wished to return home.

<sup>3</sup> Some district examples include John Bayles who originally was granted 500 acres in 1824 and by 1828 he held 2000 acres in grants, another 3000 purchased acres and 2600 rented. Capt. William Bunstun who increased his grant of 2560 acres to 5066 granted acres and an additional 1434 purchased acres. Robert Harrison was granted 2000 acres in 1823 and was also renting 6880 acres by 1828.



The social elite of colonial settler society consisted of a small group close to the governor who occupied local and Colonial Office appointments. Most were professional colonial officials whose careers took them to a number of British colonies and so they had less of a personal stake in Van Diemen's Land. They tended to keep themselves apart from the rest of settler society, which according to one contemporary, consisted of three other groups: "the respectable free inhabitants" or large land holders; "free persons of an inferior status" who were both free migrants and emancipists; and the convicts.<sup>4</sup>

The social landscape of the Midlands was more complex than a first glance might suggest. While some amongst the large landowners were politically Tory, others were not. Many included those whose religious, political and social views were considered radical. Amongst their ranks were Whigs, religious non conformists such as Quakers, Methodists, Presbyterians, Unitarians and Wesleyans, and economic and political reformers who were anxious to advance the cause of the middle classes for more political participation in government. Neither were the lower orders particularly unified. Some became tenants or owner-farmers; others developed small businesses or were self employed. Some were politically aware or adopted agendas of self improvement, while others remained socially excluded or experienced significant poverty. This lack of social and political cohesion in Midland's society reflected the complex social and economic divisions in Britain.<sup>5</sup> At the same time, the colony offered new opportunities to some men and women from all classes.

In Van Diemen's Land the magistracy was tightly controlled by Governor George Arthur whose son-in-law, Matthew Forster, was also the Chief Police Magistrate. Rather than publicly protesting, magistrates who significantly disagreed with the governor took action by resigning their commission. In 1834, Peter Murdoch was appointed acting magistrate at Richmond by the governor, and also served for a year at Oatlands before resigning, because he believed the magistrates were too strictly

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<sup>4</sup> Henry Walter Parker, *The Rise, Progress and Present State of Van Diemen's Land with Advice to Emigrants*, p.68. Parker acknowledged this description was "rather highly colored...though it contains much truth" and attributed it locally to the author of the 'Van Diemen's Land Almanack'. Parker was probably referring to Dr James Ross, owner and printer of the *Hobart Town Almanack*.

<sup>5</sup> Asa Briggs, *The Age of Improvement*, (London, Longmans, 1962), Third impression, pp. 397, 411-412, 443.

disciplined by the governor and no gentleman could be expected to tolerate that.<sup>6</sup> By 1835, the first of the land owner-magistrates in the Campbell Town Police District were just starting to consolidate their wealth and build their first permanent residences. If they held strong views on social and political issues that differed from the governor's, they largely kept these to themselves.

Arthur selected magistrates whose farms were strategically located across the rural districts, especially on the outskirts of the settlements and in areas that were still considered dangerous, where settlers were open to attack by Aborigines or bushrangers. Barlow argued that New South Wales was over policed with a ratio of 1 magistrate for 540 persons in 1836.<sup>7</sup> In the same year, the Campbell town police district had a ratio of 1 magistrate for 178 persons.<sup>8</sup> Local settlers had far better access to magistrates than they did in New South Wales, and lower court sittings in Campbell Town and Ross were regular and always attended by one or more of the magistrates who were rostered to preside.

About half of the Campbell Town magistrates had former military experience. Arthur appointed three former officers, Major William Gray and Captains William Serjeantson and James Crear to control the remote South Esk valley and the St Pauls Plains near Avoca. But he also appointed civilians to the bench from a variety of backgrounds including farming, banking and commerce. After 1827 Arthur started to select younger men with talent like James Sutherland and Charles Viveash. They were more politically reformist than the older magistrates, whom they sometimes mocked privately. Viveash was a Unitarian with a farming background from the north of England and Sutherland was a Scot.

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<sup>6</sup> Great Britain, Parliament, House of Commons, Select Committee on Transportation, *Report from the Select Committee of the House of Commons on Transportation*, Sir William Molesworth, chairman of the committee, (Adelaide, Libraries Board of South Australia, 1967), Vol. 1, p. 116.

<sup>7</sup> Lorraine Barlow, "'Corrupt and diseased' or 'gentlemen for evermore'?" The controversy over the magistracy in nineteenth-century New South Wales.", *Push from the Bush*, No.25 (1987), p. 59-60.

<sup>8</sup> Population (free and convict) in the Campbell Town police district on 1 January 1836 was 2320 persons. James Ross, *Van Diemen's Land Annual Hobart Town Almanack for 1836* (Hobart, James Ross Publisher, 1836), p. 46. There were 13 magistrates in the district: 11 non-stipendiaries, 1 police magistrate and 1 magistrate superintending the Ross Bridge gang.

The first five local settlers to accept positions as non stipendiary magistrates prior to 1827 had arrived in 1823 with their families and between £2000 and £3000 in cash and goods. Lieutenant Samuel Hill RN was 62 years old and a half pay officer who had sold his commission when he arrived on the *Berwick* and took up 2000 acres on the Elizabeth River east of Campbell Town. Henry Jellicoe, another early justice of the peace, settled beside him on a similar acreage close to the town. Three others lived a little further away, but still within ten miles of Campbell Town. To the north, Richard Willis settled along the Main Road near Hyland's Lagoon. Willis was a West Indies merchant who sold his share of the family business to his brother when the economic recession in Britain threatened the prospects of his large family of 13 children. He emigrated in 1823 with £3000 but was delayed in embarking for Van Diemen's Land. With only days to spare after landing at Hobart, Willis and his two eldest sons rode furiously to arrive at their grant and claim it just within the required twelve month period. They built a sod hut with a canvas roof, as proof of their "improvement" of their grant. This type of first dwelling was common amongst the early settlers and many families lived in these makeshift structures or simple huts for a number of years. Willis and his sons and several convict labourers spent the rest of 1823 constructing three log cabins that would house his convict workforce and his family. Early in 1824 the older daughters joined them to get the place ready for their mother and the younger children, who had remained in Hobart.<sup>9</sup>

The first years on the land were physically hard despite the assistance of convict workers and a characteristic of those who succeeded was a willingness to adapt to manual labour.<sup>10</sup> Willis rapidly extended his original acreage through purchase and additional grants, including one of 1000 acres for capturing the bushranger Priest in

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<sup>9</sup> Willis Edward, *Willis – Origin of Family*, (manuscript not dated), p. 18, Correspondence File, AOT. This manuscript was written by Richard Willis's GG/ grandson descended from his 11<sup>th</sup> child.

<sup>10</sup> The Parramores of Wetmore and Beaufront farms near Ross provide similar information about their first year establishing their farms. See Parramore, William Thomas, *The Parramore letters : letters from William Thomas Parramore, sometime private secretary to Lieutenant Governor Arthur of Van Diemen's Land, to Thirza Cropper, his fiancée in Europe and England, the majority from 1823-1825*, transcribed and edited by D.C. Shelton, (Epping, New South Wales, D.& C. Shelton, 1993). Contemporary travelers who wrote guidebooks for future emigrants commented on the rough physical conditions for the whole family when establishing a farm. One early surveyor in the Midlands praised the Gatenby's on the Isis River in 1826 for the willingness of the whole family, including the wife and daughters, to work at establishing the farm. See McKay, *Journals of the Land Commissioners*, p. 22.

1826.<sup>11</sup> Other potential dangers included local Aboriginal tribes who defended their land against the invaders. Benjamin Horne selected his first 2000 acres north of Ross on the Macquarie River in 1823, but later handed back other land he had tendered for in 1828, when his shepherd was killed by local Aborigines on the first day he occupied it.<sup>12</sup> There were other physical dangers for settlers too. Horne's third son, Benjamin junior was killed in 1831 while defending an overseer from a convict servant. His second son Edward drowned in 1839.<sup>13</sup> Despite the risks to life of colonial farming, by 1832 Horne had increased his property to over 4000 acres through additional grants and purchases.<sup>14</sup>

Captain William Serjeantson, formerly of the 40<sup>th</sup> Foot, settled on the South Esk River and married Richard Willis's daughter Marianne in 1826. Although Hanlith farm, Serjeantson's grant, was only ten miles from his father-in-law's farm, the South Esk was the district's northern border and was still reputedly occupied on its northern banks, by Aboriginal people from the Ben Lomond clan.<sup>15</sup> Serjeantson's military background may have made him a good choice to help guard the safety of this area. James Cubbiston Sutherland, a Scot, also arrived in 1824 with capital of only £500 which secured him a small grant of 1000 acres on the Isis River. This was another remote area of the district, which was still recording attacks between settlers and Aborigines as late as 1828. In 1827 George Taylor's eldest son was killed by Aborigines near their Valley Field farm on the Isis River, not far from Sutherland's place.<sup>16</sup> Sutherland had to supplement his farming income for the first decade by obtaining some local paid appointments including Coroner from 1825 to 1831 and Inspector of Distilleries in 1827.<sup>17</sup> It took him longer to accumulate holdings of a similar size to those of other successful Midlands farmers.

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<sup>11</sup> Correspondence File, *Richard Willis*, AOT. Notes in the file are by P.R. Eldershaw for his entry on Willis. See also *Australian Dictionary of Biography*, (ed. D. Pike) (Carlton; Victoria, Melbourne University Press), Vol.2, pp. 604-605.

<sup>12</sup> LSD 1/9/ p. 91-92, AOT. Letter from Horne to the Lands Department.

<sup>13</sup> Correspondence File, *Horne Family*, (manuscript), AOT. Both deaths of his sons are recorded.

<sup>14</sup> Horne Benjamin, *Wayne Index*, AOT. Card file of land acquisitions.

<sup>15</sup> John Helder Wedge, *Diaries of John Helder Wedge 1793-1872*, (eds) W.F. Ellis, George Hunter Crawford & George Hawley Stancombe, (Hobart, Royal Society of Tasmania, 1962), pp. 55, 62 and *passim* for reports of Aborigines in South Esk & St Pauls rivers and Mills Plains area.

<sup>16</sup> Correspondence Folder, George Taylor, Query No. 1963/296, AOT. See also *Colonial Times*, 17 November, 1826. See also NS 61/1, Diary of J.C. Sutherland, AOT, 13 November 1826.

<sup>17</sup> CSO 50/1-7, Blue Book 1827, AOT, pp. 72, 107, 183. See also CO 284/51, 1828, AOT.

After 1827 Arthur made a series of further appointments to the non stipendiary magistracy to assist the first paid police magistrate of the district. Captain William Wood, formerly paymaster of the 15<sup>th</sup> Foot, where he had served in the West Indies and at Waterloo, was appointed a magistrate in 1830. His commission was given to him only a year after he arrived in Van Diemen's Land. His grant of 2000 acres was located at Snake Banks, north of Campbell Town on the Main Road. As this was an excellent vantage point to control all passing foot and vehicle traffic, a police outpost was later established there.<sup>18</sup> Absconders and those convicts traveling without passes had to detour through the bush to avoid the police checks.

Charles Viveash of Baskerville farm arrived in 1831 and was made a magistrate in the following year. He and his brother converted from the Anglican to the Unitarian church, after which they were rejected by their family. Charles arrived with £3000 and obtained one of the last land grants on the Isis. Charles and his wife Ellen were in their early thirties and appeared to have been young idealists who hoped to create a different society from the one they had left in Britain. They were determined to show that their decision to change their religion and migrate was based on sound judgment. They believed Charles' experience at farming would ensure that they had economic and social success.<sup>19</sup>

The last of the non stipendiary magistrates to be appointed before 1835 was the former Royal Naval Captain James Crear. He traveled back to Van Diemen's Land in 1831 with the Viveashes on the *Drummore*, although he had first visited the colony in 1824, and had already secured his land grants.<sup>20</sup> Over time he took up additional grants of land between the South Esk River and Epping Forest on the Main Road. He

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<sup>18</sup> PWD 266/1713, 1838, AOT. Map, Site of land Wood made over to the Crown for the site of police office.

<sup>19</sup> *The Tanner letters: a pioneer saga of Swan River & Tasmania, 1831-1845*, (ed) Pamela Statham, Nedlands, University of Western Australia Press, 1981), Introduction, pp. xv, xvii.

<sup>20</sup> Three sets of Campbell Town magistrates had met on ships bringing them to Van Diemen's Land: Lieut Samuel Hill and James Sutherland on the *Berwick* - 1823; Benjamin Horne and John Leake on the *Andromeda* - 1823; and Viveash and Crear on the *Drummore* in 1831. This enforced ship-board society for several months was sometimes the beginning of life friendships between early settlers.

maintained a lower profile than some other magistrates after he accepted a commission in 1833, concentrating on farming and his extensive land acquisitions.<sup>21</sup>

The two most important non stipendiary magistrates appointed after 1827 period were John Leake and Major William Gray of St Pauls Plains. These men were the most useful to the civil administration and were called upon to take up additional duties when a need arose. Leake had first settled in the district in 1823 but concentrated on his business and farming interests before accepting a commission from the governor in 1832. Leake had a background in banking from north Germany and had arrived with very complementary letters of recommendation to Arthur from the British Consul General in Hamburg.<sup>22</sup> By 1832 he had proved himself a diplomatic and conciliatory man in his dealings with neighbors.<sup>23</sup> An astute businessman, he was able to establish a career as a colonial banker.<sup>24</sup> He impressed Arthur from the start and managed to persuade him to approve a further grant of 2000 acres in 1828. This grant was situated between Leake's farm and Richard Willis's property. Leake confessed to Arthur that he knew Willis wanted it and would buy it if the land came to auction, but Leake could not afford to do so. Arthur granted him the land, but chose not to gazette it publicly as he feared it could lead to stricter limits on the ways grants were made.<sup>25</sup> This grant remained a contentious

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<sup>21</sup> James Crear, *Wayne Index*, AOT. See also 1824/ GO 33/18/ p. 832 –application for grant at Epping Forest – 700 acres; 1829/ LSD/89/ p.59 with map of land p. 258/ application for grant on South Esk River – 1860 acres; 1836/ LSD1/76/ p.19 application for town lot in Campbell Town; 1839/LSD1/2/ p. 95 purchase of 640 acres; 1839 LSD1/691,699; OD vol. 32, p.587,1839.

<sup>22</sup> CSO 1/114/2861, found in John Leake, *Correspondence Folder*, AOT. John Mellish, the British Charge D'Affairs and Consul General in Hamburg wrote: "I am satisfied you will always be satisfied with the integrity of his conduct, and his mild and gentlemanly manners. Was a member of one committee for managing church affairs of the established church here of which I am chairman. Your excellency will find his lady a very agreeable genteel woman..."

<sup>23</sup> CSO 1/28/497- 23/3/1826/ Leake to Col. Sec. See also John Leake, *Correspondence Folder*, ATO. 1826 –23 March. Leake complained to the Colonial Secretary because Lieut. Samuel Hill, the local magistrate, had illegally granted a ticket of leave to one of Leake's convict workers who had not served sufficient time for it. Leake's correspondence to Col. Secretary Montagu and Arthur's response shows Leake "a careful, encouraging and considerate master, diplomatic" to Samuel Hill and to Arthur. Arthur agrees he could not give the servant a TL until he has been 3 years in service to Leake. Arthur commends the delicate way Leake has handled this issue.

<sup>24</sup> John Leake, *Wayne Index*, AOT. See also *Australian Dictionary of Biography, 1788 – 1850*, Vol.1, p.100.

<sup>25</sup> CSO 1/114/2861, AOT.

issue between Willis and Leake, and Willis later appealed unsuccessfully to Governor Franklin, in an attempt to gain compensation.<sup>26</sup>

There is no doubt that Leake was popular with the civil establishment because of his diplomacy and business acumen. Within a year of accepting a commission of the peace, Leake was offered a promotion to the post of acting stipendiary police magistrate at Campbell Town, which he held until 1834.<sup>27</sup> He continued to demonstrate his ability to please the Hobart bureaucracy at the expense of falling out with another two of his fellow magistrates, Viveash and Sutherland. As Matthew Forster, the Chief Police Magistrate observed: "In justice to Mr Leake I am bound to add that in every case of dispute which has yet passed through this office I think he has been in the right."<sup>28</sup> While this incident could demonstrate Leake's ability to implement justice without fear or favor, even at the expense of the feelings of his fellow magistrates on the bench, it also suggests that his popularity with the civil establishment may have also been because of his usefulness to them as a banker.

The other local magistrate who proved especially useful to the civil establishment was Major William Gray of Rockbank farm at St Pauls Plains. Gray and his family had arrived in the colony in 1827. He and his two brothers came from an Irish military family and he had cashed in his commission in the 74<sup>th</sup> Regiment and selected 2560 acres in the remote St Pauls Plains area off the Fingal road. At 35 years of age Gray threw himself into the work of developing his farm with zeal and his industry greatly impressed Arthur.

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<sup>26</sup> Richard Willis, *Correspondence File*, (Manuscript, P. R. Eldershaw, *Notes on Richard Willis*), AOT. Eldershaw mentions this issue more briefly in his entry on Willis in *Australian Dictionary of Biography*, Vol 2, p. 605.

<sup>27</sup> Leake held the position of accountant with the Derwent Bank in Hobart, from around 1825 and left his son in charge of his farm. The Derwent Bank was instrumental in attracting investment capital into Van Diemen's Land from India and Britain: it also issued salary payment orders to public servants on behalf of the administration. Government officials were instrumental in its structure. Later, Leake took a director's position on the board of the Commercial Bank. See *Australian Dictionary of Biography*, op.cit., for further details.

<sup>28</sup> CSO 1/723/ 15, 959, *Forster to Arthur*, AOT. Leake accepted the word of one of Viveash's convict workers over Viveash's in an incident about a bullock. Certainly in 1835 there is evidence that Arthur, who reviewed all cases that came before the magistrates courts, wanted to be assured that the police magistrates acted scrupulously fairly when hearing cases. This is a good example of Leake taking a cautious approach. He may well have felt the evidence was in the convict's favor, but he also would have known that it would be seen to his credit in Hobart that he had done so.

In 1828 Gray applied to have 1500 acres of Crown Land he was renting granted to him. The improvements, he claimed, included having cleared 50 acres, and the running of 360 cattle, 1700 sheep and 5 horses. He had built a £600 brick house, three and a half miles of fencing, outbuildings, stockyard and gardens.<sup>29</sup> Arthur was so impressed with Gray's energetic approach that he increased the Land Board's recommendation to 2560 acres.

Gray's military background was even more useful to the civil establishment as he had a reputation for maintaining strong discipline over his convict servants. The remoteness of St Pauls Plains created problems for some settlers, who found it difficult to manage their convict servants and found it too far to access the Police Magistrate in Campbell Town. The isolated nature of the district also encouraged sheep stealing and was a lure for absconders who could hide in rugged country from police and military detachments. Arthur made Gray a non stipendiary magistrate in 1827, just a year after his arrival in the district. From then on Gray dispensed tough sentences to local convict servants from the court that was held at his home. Sentences of flogging and ganging were common punishments from Gray.<sup>30</sup> Some of these may have been commuted by Arthur, but on the whole Gray's strictness impressed the governor. In 1835, when the local convict police force in Campbell Town was suffering from low morale, poor behavior and a loss of confidence from the community, Arthur offered Major Gray the position of acting Chief District Constable and he was appointed to apply some strict military discipline to improve the situation.<sup>31</sup>

A complex relationship of reciprocity existed between Arthur and his non stipendiary magistrates. They held expectations that the governor would reward them with further grants of land and increases to their convict workforces. As well, other non material benefits existed for magistrates. Their closeness to the civil establishment in

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<sup>29</sup> LSD 1/4/ p.821-825, AOT.

<sup>30</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trials of Bile, Preece and Fisher, 12 Dec 1835, stealing potatoes - road gang ; Hall, 20 July 1835, impertinent to overseer - 25 lashes; Riddle & McMann, stealing - 24 lashes ; Shapton, 24 Nov 1835, disrespect - 24 lashes ; Donnelly, 25 Nov 1835, disobedience and neglect of work - road gang ; Leoy, 22 October 1835, insubordination - road gang ; Stell, 28 Oct 1835, insolence - road gang.

<sup>31</sup> *Hobart Town Gazette*, 27 August, 1835, Police Appointments, Mr William Gray, p.701.



Hobart conferred on them a certain status, even though it was not likely to impress everyone in the district. They were the local source of legality and power, especially over all convicts and other members of the lower orders but this did not always confer upon them a higher social status than their peers.<sup>32</sup> Others were as wealthy, some more so, and they too had social and business access to the governor and the civil establishment. Indeed, some settlers were offered the commission of the peace and refused it due to business pressures while others accepted it for several years only to relinquish it later.<sup>33</sup> This suggests that many of the large land owners in the district were prepared to put their own financial interests first and civic responsibilities were clearly perceived by some to be more trouble than they were worth. A position on the bench may have carried expectations of further land grants but this was not the only way to acquire additional holdings.

Apart from the status of belonging to the first group of the district, it is difficult to find conclusive evidence that Arthur offered substantially more material patronage to the non stipendiary magistrates as a general group than he did to other local settlers. If a settler could satisfy the Lands Board and Arthur that he had made sufficient improvements to his dwelling, barns, fences, and the area of land brought under cultivation, he would be likely to get additional land grants as an increased incentive to continue to expand. Morgan argued that further land grants were widely spread amongst the various groups of settlers. One third (37%) of the further grants went to men who had held some form of public office but wealthy settlers, former military men, publicans and Irish and Scottish settlers also received further grants. Arthur supported the colonial born too. Over 50% of those born in the colony, who had received one land grant, received further grants. The key criteria appeared to be that the applicant was under forty years of age and successful at farming.<sup>34</sup> Arthur believed that individual success had the effect of increasing the communal wealth of the colony, even though he sometimes found the settlers' constant badgering for additional land grants tiresome. While there is little conclusive evidence that magistrates, as a group, had access to substantially more patronage than other

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<sup>32</sup> Neal, *Rule of Law*, p.131.

<sup>33</sup> CSO 5/71, 1837, AOT.

<sup>34</sup> Sharon Morgan, *Land Settlement in Early Tasmania: Creating an Antipodean England*, (Cambridge, Cambridge University Press, 1992), pp. 34-5.

successful settlers, there is some evidence that this was a strong perception amongst some settlers.<sup>35</sup>

Patronage issues, politics, pride and the management of relationships with the civil establishment seemed to have been handled with differing degrees of subtlety within the group of magistrates and with little sense of solidarity. Their shared public role of enforcing the convict regulations did not prevent them competitively vying for land and wealth. These roles could often bring them into conflict with each other. They were likely to remain fiercely competitive in their private pursuit of wealth. Regardless of this, most locals of all ranks perceived that after 1828, the local non stipendiary magistrates did not differ much in power from other landed settlers, and that they had become primarily reduced to being assistants to the local police magistrate.<sup>36</sup>

This was in strong contrast with local magistrates in New South Wales who belonged to a well established land owning class that held a more conservative social and political agenda and appeared to hold a lot of personal power in their districts. By the 1830s they formed an effective and organized opposition to the governor and Legislative Council.<sup>37</sup> Some were able to manipulate the charges and sentences they handed down, either with the collusion of their fellow magistrates or by ignoring the requirements of the 1832 Summary Jurisdiction Act. In the Campbell Town district, by comparison, few magistrates had been in the colony longer than three or four years which did not allow them time to form factions to try to entrench themselves in power or challenge the administration's regulations. In any case some of the

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<sup>35</sup> Melville Henry, *The History of Van Diemen's Land from the Year 1824 to 1835*, first published 1836, (ed) George Mackenness, (Sydney, D.S. Ford, 1959), Part 2, p.49.

<sup>36</sup> R.W. Giblin, *The Early History of Tasmania, The Penal Settlements Era: 1804 – 1828*, (Melbourne, Methuen & Co., 1939), pp. 585-586. David Neal, *Rule of Law*, pp. 134 – 136. Neal argues that the Summary Jurisdiction Act of 1832 attempted to further reduce the magistrates' power in NSW by specifying the offences over which they held jurisdiction, but vague catchall charges like 'offensive language' and 'neglect of work' remained. Punishments were also more tightly specified. In VDL, Arthur required all magistrates to send weekly returns of charges and punishments to the Chief Magistrate's office, where they were reviewed before being forwarded to him. He intervened to change some sentences, and this process probably created a unifying effect across the different sentencing strategies of his police magistrates. Certainly Peter Murdoch, a one time police magistrate, land owner and witness at the Molesworth Commission, cited this as his reason for resigning his commission.

<sup>37</sup> Michael Roe, *Quest for Authority in Eastern Australia 1835-1851* (Melbourne, Melbourne University Press, 1965) pp. 41-42.

regulations opposed in New South Wales appeared of immediate benefit to magistrates and settlers in Van Diemen's Land. The establishment of a paid convict police force under the control of a police magistrate gave local justices more time to devote to their farms and an instrument through which their convict workforces could be controlled. Neither were they particularly keen to be public advocates for either trial by jury or wider middle class participation in colonial government and did not oppose Arthur's opposition to introducing these reforms.<sup>38</sup>

Only much later did one of their number play an active role in politics. In 1846 six appointed settler representatives on the Legislative Council, the Patriotic Six, resigned because they opposed the use of local revenue for the payment of police and jails, believing that Britain should continue to fund this expense.<sup>39</sup> Governor Eardley-Wilmot accepted their resignations and appointed others in their place. It is significant that one of the replacements was former local magistrate John Leake, who was prepared to act as the governor's nominee on the Legislative Council until the British Colonial Office resolved the issue by recalling the governor and reinstated the former members of the Council. Leake became a government nominee again in 1848 and served on the Legislative Council during governor Denison's term of office. His political actions were generally seen to be independent and constructive rather than self serving or conservative.<sup>40</sup> The only other local justice of the peace to take a political stand was Captain James Crear and that also was many years later. Crear acted on his own convictions in 1850, when he chaired an anti-transportation meeting and returned his convict servants to the Crown, in a public gesture of defiance.<sup>41</sup>

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<sup>38</sup> Neal, *Rule of Law*, pp. 131-132 and see Roe, *Quest for Authority*, p. 42. This position is supported by Roe who acknowledges the differences between the political actions of magistrates in N.S.W. and V.D.L.

<sup>39</sup> One of the six was a local Campbell Town elite settler, William Kermode, a wealthy farmer from Ross, who supported many agricultural improvements and introduced a system of irrigation in the district.

<sup>40</sup> Douglas Pike, *Australian Dictionary of Biography*, Vol.1, p.100.

<sup>41</sup> *Guardian*, 21 Sept 1850, p. 3, col. 4; *Chronicle*, 3 Oct 1850, p. 4, col. 2; James Crear Naval, *Wayne Index*, AOT. Crear was chairman of the Campbell Town and Oatlands Committee public meeting that resolved to send a petition to Britain to the Secretary of State requesting the abolition of transportation. This was the petition that was criticized by the Governor as its tone was considered inappropriate to the petitioner's self respect and to the Secretary of State.

Only occasionally did one of their numbers displease a governor. William Wood, in a letter to his British cousins in 1858, referred obliquely to a matter which had incurred the displeasure of Governor Franklin. Wood wrote that he had chaired:

every special meeting of magistrates in the district until I retired, on account of a supposed, in fact a real affront offered to them by Governor Franklin, until then my familiar (I may say friend) however continued his usual civility – but never slept at my house afterwards – for this resignation I was offered a piece of plate, but would not accept it, thinking that it was more the aggrieved person's affair than mine and that the aggrieved should also have resigned.<sup>42</sup>

Captain Wood, who “always possessed the rank and reputation of a gentleman”, obeyed a social custom more punctiliously than the unnamed colleague, probably not a military man, who kept his position as magistrate and allowed Wood to take the blame.<sup>43</sup>

The early Van Diemen's Land magistrates also came from a broader set of backgrounds than those of New South Wales and remained pragmatically middle class. Many had been touched by the reform agenda before leaving Britain and knew that change to both political and social institutions was likely. In that respect they were more in tune with the post Napoleonic war climate of Britain than those who settled New South Wales thirty years earlier. Although there were conservatives within their ranks, it would be a mistake to regard the Midlands justices as universally conservative. They were men with varied opinions and abilities, most of whom were committed to using their power in the lower courts to act in the public interest.<sup>44</sup>

The magistrates were firstly farmers and their main workforce was convict, supplemented by some ticket of leave men and free labour. Like their neighbors, they had to train a high turnover of young convict men into the regular habits of industry and punctuality. As one convict put it when arraigned for lack of competency as a

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<sup>42</sup> William Wood, *Correspondence File*, AOT. Letter dated 20 August 1858, Wood to his cousins in Britain.

<sup>43</sup> *Ibid.* Wood to his cousins, letter dated 9 March 1858.

<sup>44</sup> Roe, *Quest for Authority*, pp. 35, 41, 42, 204.

gardener, “I have never worked a day in my life.”<sup>45</sup> The magistrates and the large scale farmers more broadly, required the services of a competent, cheap workforce in order to secure their colonial status. By the mid 1830s the most established of them had only amassed fifteen years or so of farming wealth, while Charles Viveash and William Wood had only occupied their farms for four or five years. They lacked the security of having one or more generations of family wealth behind them and many had sons for whom they still had to provide farms and futures. They had to extract as much surplus value from the labour of their convict servants as they could as this was the basis of their expanding wealth.

As masters of labour the magistrates mostly behaved within the scope of the convict regulations in managing their convict workers, but as a group they could be divided into those who managed their men with incentives and those who managed by enforcing the convict regulations more actively. Some like Willis, his son-in-law Captain Serjeantson and Jellicoe used the courts more frequently to return unsatisfactory workers or vigorously prosecute poor work and misdemeanors. Others like Crear, Sutherland and Viveash preferred to manage their workforce themselves and each only brought one or two prosecutions against their workers during 1835. In 1835, eleven local magistrates, between them, brought 87 prosecutions against their workers, with Richard Willis setting the district record for the year with 35 prosecutions. While some hard manual work, like clearing timber and grubbing out stumps, may have caused some convicts to refuse work, most prosecutions by settlers were against convicts who sometimes refused to conform to orderly work habits, left stock to die or gates open, wasted stock feed, or slipped away from work without permission.<sup>46</sup>

Magistrates sometimes experienced resistance from harder men who had been in the system for years and held no fears of flogging or ganging. One such was James Simmons, who refused to work the longer hours that Captain Crear required getting the harvest in. Simmons would work government hours only, a contested issue for

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<sup>45</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, 1835, AOT, Trial of William Aust, *Strathfieldsaye*, 1 October 1835.

<sup>46</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, 1835, AOT, Trial of George Laycock, *Surrey* 3, 9 February 1835. See also LC 81/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, 1835, AOT, Trial of George Bland, *York* 2, 9 February 1835.

many farm workers who felt they should not have to work longer hours than the government ganged men. Crear offered his men extra rations and inducements but Simmons was reported for running away from his work and leaving it to others. When challenged, he defied Crear and abused the man who reported him, asking him, "Why don't you speak out like a man?" He scoffed at Crear's decision to put him on government rations and to get him to grub out trees. He later demanded his meal break and rations and spent the afternoon in his hut. Crear believed Simmons was attempting to persuade his other workers to join his campaign for shorter hours. He told Crear that he could always get what he liked in the Launceston chain gang and had no fear of the lash.<sup>47</sup> He received a sentence of six months in a chain gang, one of the punishments reserved for persistent recidivists or workers who attempted to seriously undermine the authority of their master.

Very few common law offences were discovered and prosecuted. The most common was the theft of work clothes. Five men were charged with selling spare trousers, probably to get cash for drinking, gambling or to fund absconding. Only three bolder schemes were discovered. Two of Willis's gardeners had been stealing fruit trees and seeds for some time and sending these on to Hobart for sale.<sup>48</sup> One was remanded to the Quarter Sessions, the other received eighteen months with a road party. Another convict, Isaac Wood forged Major Gray's signature on a memorial to Hobart begging an indulgence, instead he received six months in a chain gang.<sup>49</sup> John Rossiter, a carpenter and one of Charles Viveashes' convicts, managed to get credit of £51.18.6 from Gavin Hogg, the publican, after convincing him he had a letter of credit for £1010. Hogg said he gave all convict tradesmen credit and laid the charge after Rossiter told him he had lost the letter of credit. Rossiter was both trading and drinking with the money.<sup>50</sup> This series of transactions demonstrated that it was not unusual for some assigned men to have access to quite substantial sums of cash,

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<sup>47</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of James Simmons, *Strathfieldsaye*, 25 February 1835.

<sup>48</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trials of Morris Barnett, *Isabella* and George Fisher, *Emperor Alexander*, 7 October 1835.

<sup>49</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of Isaac Wood, *Manilaus 1*, 2 February 1835.

<sup>50</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of John Rossiter, *Atlas*, 25 February 1835.

certainly Hogg did not initially quibble about the sums involved. Rossiter received eighteen months with a road party.

The types of charges that the local magistrates brought against their convict workers were very similar to those laid by other farmers. They were mostly brought to settle work and personal disputes and exert control over leisure activities. Sturma found a similar pattern of cases tried in the magistrates' courts in New South Wales.<sup>51</sup> However, there is little evidence that local magistrates used their positions of power in the lower courts to inflict harsher punishments on their own convict servants. In general, the police magistrate sat on charges against the servants of non-stipendiary magistrates, although he considered depositions from them and generally had them in the court to take questions from the bench or the accused. Only one local case was raised in the press, where Willis, the sitting magistrate and father-in-law of Captain Serjeantson, heard a case brought by the latter. George Rew, a carpenter with a conditional pardon, was given 21 days in the stocks for being found in bed with Captain Serjeantson's black (Caribbean) female servant.<sup>52</sup>

The punishments handed down for this group of 87 charges followed the general pattern of punishments across the district for all convict workers. Control of the workforce was the primary concern of the local courts and consequently the most severe punishments were reserved for those workers who tried to escape by absconding. The most floggings were given to men who were persistent absentees and absconders: eight of the magistrates' servants attracted between 25 and 60 lashes for this and another four were sentenced to between three and twelve months in chain gangs. Convicts who were merely incompetent or idle were more often admonished or returned to government service. Men and women whose leisure activities offended the sensibilities of their employers by being drunk, engaging in sexual acts or brawling were mostly reprimanded, with more women than men sent back for re-assignment or punishment at the female prison if they continued to offend in this way. However, common law crimes were viewed severely. If the police magistrate believed the charge of theft was warranted, the convict was remanded to appear at

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<sup>51</sup> Michael Sturma, *Vice in a vicious society: crime and convicts in mid-nineteenth century New South Wales*, (St. Lucia: Queensland, University of Queensland Press, 1983), pp. 124, 126.

<sup>52</sup> *Colonial Times*, 20 October 1835, Letter to paper from 'Veritas'.

the next Quarter Sessions. Other common law felonies considered proven resulted in a flogging or a sentence to a road party or chain gang. In general the punishments delivered to magistrates' convict servants were similar to those given to other convict workers in the district, and within the sentencing options of the Summary Jurisdiction Act of 1832. There were few if any punishments such as multiple floggings or unwarranted extensions of a convict's original sentence, as was still common in some rural jurisdictions in New South Wales.<sup>53</sup>

A degree of uniformity in sentencing existed across Van Diemen's Land because lower court sentences were reviewed twice. The weekly returns from the courts were reviewed by the Chief Police Magistrate in Hobart before being sent to the governor for final approval. Arthur frequently altered sentences he thought were inappropriate or sent convicts to road parties or chain gangs, different from the ones recommended by his police magistrates. He had fewer sentences to review than governors in New South Wales and probably viewed around 12,000 lower court sentences per year in the mid 1830s.<sup>54</sup> By comparison in New South Wales in 1841, over 25,500 cases were heard by the lower courts.<sup>55</sup>

Arthur also achieved greater control over his magistrates, all of whom had been chosen by him, often because they shared his evangelical and Benthamite outlook. Even local magistrates like Crear, Sutherland and Viveash, who appeared to support the new social and political reform agenda and rarely brought their own servants before the courts, were still prepared to accept the commission from Arthur and participate in a court process that relied on using the terror of flogging and ganging to enforce compliance from convict workers. Despite the severity of the punishments, even the younger magistrates appeared to endorse sentences that were only rarely given to felons in Britain, where ganging and working men in chains would not be tolerated by the British public, as it smacked of continental

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<sup>53</sup> Michael Sturma, *Vice in a Vicious Society*, p.120 and Alexander Harris, *Settlers and Convicts*, p.13.

<sup>54</sup> Hamish Maxwell-Stewart, *Study of 1 in 25 Convict Conduct Records*, This study counted 465 offences for the year 1835, suggesting a total of 11,625 hearings involving convicts. Additional charges laid against free persons were likely to round off the total charges in lower courts to around 12,000.

<sup>55</sup> Sturma, *Vice in a Vicious Society*, p.125.



despotism.<sup>56</sup> Although it is impossible to determine if any large land owners declined to accept a commission from Arthur, when Governor Franklin arrived, he wrote to over 180 wealthy land owners enquiring who wished to be considered for appointment to the magistracy. Over sixty declined the offer, a surprisingly high number, although only one gave his farming commitments as the reason for his refusal.<sup>57</sup> While the others may have had many reasons for refusing the office, the choice of not participating in a sentencing regime that some considered cruel and distasteful, was likely to have been one of them.

While Arthur was largely supported by his magistrates, Whitefoord, the acting police magistrate, attracted only varying degrees of support from the local justices. His temporary appointment may have encouraged some of his peers to hope that his destabilization would create an opportunity of promotion for them. Speculation about such moves grew in the district after a public meeting in May 1835 that was called to show support for Whitefoord and ask the civil administration to increase his acting salary to the full salary of a police magistrate. Willis, Hill, Viveash, Sutherland and Jellicoe were amongst other distinguished locals who called the meeting and supported the subsequent address to the Governor. Leake, Horne, Serjeantson, Wood, Gray and Crear were all noticeable absentees.<sup>58</sup>

McKenzie has argued that the colonial middle class was “an invention of its own social and economic ambition” whose boundaries were fluid, transcended individuals’ antecedents and so created a sphere for opportunity and anxiety. The anxiety was heightened by their knowledge that visitors sometimes regarded them as “parvenus, cultural incompetents, morally suspect and fictive Europeans”.<sup>59</sup> This anxiety and sensitivity to status can be seen in the lack of solidarity amongst the group of local magistrates and their quarrels with one another. Although these were mostly kept in check, they were likely to be known and talked about throughout the

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<sup>56</sup> Clive Emsley, ‘Detection and Prevention: the old police and the new’ in *Crime and Society in England 1750-1900*, Harlow: England, Longman/Pearson, 2005, p. 222.

<sup>57</sup> CSO 5/71, AOT. John Hedlam senior, in the Campbell Town district wrote that pressure of business caused him to decline the offer.

<sup>58</sup> *Cornwall Chronicle*, 16 May 1835, p. 3. Report of a public meeting in support of Police Magistrate Whitefoord.

<sup>59</sup> Kirsten McKenzie, *Scandal in the Colonies* (Melbourne, Melbourne University Press, 2004), pp. 4-5.

district. Horne, Willis, Hill, Jellicoe and Viveash all engaged in quarrels with each other, mostly over land and status issues. Lieutenant Samuel Hill R.N. was central to many of these squabbles. He entered into long standing border disputes with both his neighbors, Henry Jellicoe and Benjamin Horne. Further, he had insulted Richard Willis while they were both sitting on the bench and had incensed John Leake who claimed that Hill had illegally granted one of Leake's assigned servants an early ticket of leave, possibly so that Hill could employ the man himself.<sup>60</sup>

These quarrels festered on and in 1835 a number of new ones were aired in the magistrate's court. The trivia of the cases no doubt amused the district and was the focus of continued gossip. Henry Jellicoe charged John Grindell, one of Hill's assigned workers, with insolence after some of Hill's cattle strayed into Jellicoe's oat crop. Jellicoe ordered Grindell to tell his master to remove the cattle before morning and arrange suitable financial compensation for the damage. The convict eventually agreed he would report it to his master but "would not mention anything about compensation for I know how to deliver a message to a gentleman."<sup>61</sup> Jellicoe argued before the bench that it was not only the convict's words that were insolent, but also his manner that angered him. Apparently Grindell turned his horse's head and rode off in a different direction from his master's house. The real insult, however, was that Grindell had implied, that in contrast to his master, Jellicoe was not a gentleman. Whitefoord reprimanded the servant and dismissed the case. Grindell and Hill thus won the day.

Charles Viveash had maintained a dispute with John Leake over several years, and like some of his fellow justices, had appealed persistently and unsuccessfully to the civil administration in Hobart to have matters resolved in his favor. He claimed his honor had been tarnished when Leake, as acting police magistrate, dismissed a case that Viveash brought against one of his convict workers over some working bullocks.<sup>62</sup> By dismissing the case Viveash believed Leake had taken the word of a convict in preference to his own. Other disagreements had also taken place between

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<sup>60</sup> CSO 1/28/497, 23/3/1826, AOT. Also a copy in John Leake, *Correspondence Folder*, AOT.

<sup>61</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of John Grindell, *Red Rover*, 13 January 1835.

<sup>62</sup> Pamela Statham, *The Tanner Letters*, p. 85. Ellen Viveash in a letter to her mother dated 4 May 1834. For details of the quarrel see CSO1/723/15959, AOT.

them, while Leake had been acting police magistrate. Ellen Viveash confided to her mother that Leake was unpopular in the district and only convicts liked him. He had been asked to resign from his position of acting police magistrate, but he had refused as he wanted to:

...put the District in order. What confusion that it wants putting in order! Charles has always been victorious and observed to be so in all cases in dispute with him. I think it must have raised Charles in the opinion of the Government and has certainly infinitely lowered his opponent (Leake), as he has been detected in a falsehood and unjustifiable interference with Charles (sic) decisions.<sup>63</sup>

In a later letter Ellen remarked that:

A gentlemanly person, a young married man named Whitefoord...is coming in his (Leake's) place. We are more interested in this change as anything which happened here out of our house...we are going to get rid of our worse than useless Acting Police Magistrate...Leake has offended all the magistrates. He has behaved very ill to Charles a long time past. Mr Crear, we think, has at last ousted Leake. Mr Crear was here yesterday, he is sincere and honest and the exact reverse of Leake.<sup>64</sup>

Other seemingly minor disputes were important enough for some non stipendiary magistrates to write to the Chief Secretary's Office complaining or explaining their actions. Willis sent one such letter explaining his misunderstanding with Benjamin Horne about a gardener appointed to him.<sup>65</sup> More publicly Willis, Leake, Hill and Jellicoe used the local Court of Requests to collect small unpaid accounts of less than £5, including accounts they sent to each other.<sup>66</sup>

The smell of discord hung about the magistracy in the Campbell Town district in 1835. There was a sense that the control of the district may have been fragmenting.

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<sup>63</sup> *Ibid*, Statham, p. 85

<sup>64</sup> *Ibid*, Statham, p.109. Ellen Viveash to her mother in a letter dated 12 October 1834. A different view of Leake is given in *Australian Dictionary of Biography*, Vol.2, p. 100, in which he is described as handling disputes with kindness and consideration while acting police magistrate, and winning the support of his superiors who acknowledged that his decisions were always right.

<sup>65</sup> CSO 1/9886, ATO, Correspondence summary for Richard Willis.

<sup>66</sup> LC 75/1, Court of Requests, 1835, AOT.

Rumours suggested that John Whitefoord would be passed over for the permanent appointment to police magistrate. Three different chief district constables had been in charge of the convict police that year and the district constable in charge of the Ross police station, Edward Freestun, had been charged with embezzling five window frames and had been remanded to the Quarter Sessions.<sup>67</sup> Voices of dissent started to appear in the local press and their target was the police magistrate, John Whitefoord. Four or five disgruntled local residents, some almost certainly emancipists, maintained a letter writing campaign in the months leading up to the permanent appointment being announced. They wrote to the *Cornwall Chronicle* under such names as 'A Constant Reader', a 'Campbelltonian' and the more literary 'Zetis' and 'Veritas'. Their identities may have been apparent to local readers, as they sometimes hinted at personal details that could identify them. Their letters used ridicule, robust criticism and innuendo to undermine confidence in Whitefoord's management of the court and police.

'Veritas', a self confessed Scot, storekeeper and possibly a butcher, directly attacked Whitefoord's performance of his duties as police magistrate. He accused Whitefoord of being absent from duty for ten days, frequently failing to arrive at the police office before midday and adjourning the Court of Requests for fourteen days, causing financial distress to plaintiffs who were trying to recover small debts. These messages to Hobart were driven home very bluntly when 'Veritas' compared Whitefoord unfavorably with the former police magistrates, England, Simpson and Horne, "who would have sat till daylight in the morning to clear it all" (that is, cases waiting in the Court of Requests).<sup>68</sup>

Both 'Veritas' and 'A Constant Reader' criticized Whitefoord for allowing police to run a private business that competed with other traders while supposedly on duty. 'Veritas' claimed the two police in charge of the Pound were permitted to run a butchers shop, which also implied they helped themselves to impounded cattle for

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<sup>67</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of Edmund Freestun, 1835 Magistrates Bench Book, Campbell Town, 20 June 1835.

<sup>68</sup> *The Colonial Times*, 28 June 1835, 11 August 1835, 20 October 1835, letters to paper signed 'Veritas'

slaughter.<sup>69</sup> ‘A Constant Reader’ claimed they also slaughtered the cattle without getting the required inspection from the government inspector.<sup>70</sup>

Both letter writers accused Whitefoord of using convict mechanics for his private purposes. A convict plasterer was alleged to have been working in Whitefoord’s own house and other convicts were sent to build the jailer’s stables while they were waiting to be transported to another district.<sup>71</sup> It was also alleged that convict police had been observed working as Whiteford’s gardeners and carpenters.<sup>72</sup>

More seriously, hints of corruption were aired when ‘Zetis’ accused Whitefoord of allowing his clerk, George Emmett junior, to make out police pay orders to be cashed exclusively at the local store owned by Emmett’s father.<sup>73</sup> This was a perceived favoritism, as previously, other storekeepers had cashed the pay orders but at a discount to their face value. A local policeman, writing as ‘John Doe’ replied that this practice benefited the police as Emmett’s store obliged them by cashing the orders at their full value.<sup>74</sup> Despite this public explanation, Whitefoord wisely stopped this practice from continuing, probably concerned about the local suspicions that surrounded Henry Emmett senior, who had previously been accused of misappropriating government funds when he had worked as a public servant in Hobart.<sup>75</sup>

While these main thrusts were directed at Whitefoord, a few of the non stipendiary magistrates were also targeted. Richard Willis was commonly referred to as ‘Dick

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<sup>69</sup> *Ibid*, 11 August 1835, letter to paper signed ‘Veritas’.

<sup>70</sup> *Ibid*, 15 September 1835, letter to paper signed ‘A Constant Reader’.

<sup>71</sup> *Colonial Times*, 11 August 1835, letter to paper signed ‘Veritas’ and 26 June 1835, letter to paper signed ‘A Campbelltonian’.

<sup>72</sup> *Colonial Times*, 15 September 1835, letter to paper signed ‘A Constant Reader’.

<sup>73</sup> *Colonial Times*, 6 October 1835, letter to paper signed ‘Zetis’.

<sup>74</sup> *Courier*, 11 September 1835, p. 4, letter to paper signed ‘John Doe’.

<sup>75</sup> Henry J. Emmett, *Correspondence Folder*, Files 165/234 and 1970/259, AOT. This charge could well have had some substance. The Emmett family, although from the elite settler class, were involved in a number of cases of misappropriation of government funds. George senior was rescued by friends who made restitution of the money he embezzled, but Arthur forced him to retire. His son George, the magistrate’s clerk in Campbell Town, was charged, but not proceeded against, in 1837 with embezzling funds from the collection of Quit Rents in Campbell Town. George’s brother was removed from a civil service position in Launceston for a similar alleged offence in the Survey Office. These cases illustrate the different treatment members of the settler class received when they committed crimes against property, compared with emancipists, convicts and poorer free settlers.

Last', a reference to an incorrect rumor that his family had been shoemakers before emigrating and becoming district notables.<sup>76</sup> Given the pseudonym 'H. Sillycove Esq.', Henry Jellicoe was lampooned for his new ostentatious carriage, a chaise and four, and its use by Whitefoord to drive through the township waving farewell to the people when he was leaving the district.<sup>77</sup> The *Cornwall Chronicle* insultingly described Whitefoord as "a large white faced ourang-outang (sic) nearly six feet high, branded JW on the right shoulder and JP on the other; slender make, sandy whiskers, rather long in the back and legs and had on a blue coat and white gloves."<sup>78</sup> That the caricature was clearly modeled on a convict indent description only added insult to injury. The alienated working class voice could be heard loudest in the press in Van Diemen's Land, where local magistrates could be satirized as animals, idiots and pretenders, who were engaged in swindles and abuses of the law for which other men were sent to chain gangs.

For some large land owners in Van Diemen's Land, the magistracy was a temporary advantage that did not necessarily signify they were committed to the young colony. Six of the eleven Campbell Town magistrates sold up, took their profits and returned to Britain. This is an unexpectedly high number who achieved status and wealth in the colony, but chose to give it up and return to a country where they would live in obscurity as part of the general middle class; where their level of wealth would buy them a comfortable life, but no particular status.

Lieutenant Samuel Hill R.N. was the first to leave aged seventy-six. He and his wife had been planning to leave in 1834, but had wanted more than £1 per acre and had to wait for a buyer.<sup>79</sup> Ellen Viveash recorded that the Jellicoes were also appraising their potential profits in 1834. They planned to sell most of their land and only keep several hundred acres round Camelford Cottage near Campbell Town, where they had recently added a large new salon to the house and Ann had supervised the

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<sup>76</sup> *Colonial Times*, 20 October 1835, letter to paper signed 'Veritas'.

<sup>77</sup> *Independent*, 4 August 1832, Jellicoe appeared to be prone to blunders and misadventures. In 1832, he was reported in this newspaper, blundering into the ladies dressing rooms at a concert in Hobart, accompanied by Charles Arthur.

<sup>78</sup> *Colonial Times*, 27 October 1835, Domestic Intelligence Column.

<sup>79</sup> Samuel Hill, *Correspondence File*, Archives of Tasmania. See also Samuel Hill in the *Wayne Index*, AOT.

planting of an extensive garden.<sup>80</sup> Jellicoe expected to get an income of £400 a year from his profits and sold 6000 acres in 1837 and returned to England alone, where he lived with his father in Brighton until he died of smallpox in 1841.<sup>81</sup> Ann stayed on at Camelford Cottage until she offered it for sale in December 1842. In April 1844, she too sailed for England.<sup>82</sup>

Ellen Viveash discussed their retirement hopes with her mother in 1834. Most of their friends and relatives in India intended to return to Britain and were speculating about how much money was needed to live comfortably in England. Most were aiming for “a fairly modest life” as were Ellen and Charles. They did not want to live in a “pension place” like Portsmouth but were favoring a town like Clifton where they could keep a pair of horses and a curricule and “jaunt about”. To do this, they calculated they needed £500 a year. They were hoping they would clear £12,000, when they sold up after settling their debts.<sup>83</sup> In fact they could not sell at this price, as their land was likely to fetch only £1 acre and the sheep 17 pence each, so Charles leased out the land instead and they left for England in 1836, to live on their rental income.

The Willises sold up and left in 1840, initially to set up their sons in farms on the mainland in the new Port Phillip District, while they planned to farm on land near Warrnambool in the Western District of Victoria. Their sons established themselves successfully in the area that became Ivanhoe on the Yarra River near Melbourne, but Richard and his wife left for England when it became apparent that the local Aborigines were hostile and resisted his encroachment on their traditional lands at Warrnambool. Willis had arrived in Van Diemen’s Land with £3000 capital but sold his farm, Wanstead Park, 8000 acres, stock and many improvements in 1840 for £60,000.<sup>84</sup> Major Gray reputedly had been offered £20,000 for Rockford Farm at St Pauls Plains in 1838 and refused the offer. He eventually sold at a much lower price

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<sup>80</sup> Statham, *The Tanner Letters*, p. 86.

<sup>81</sup> *Ibid*, and the *Courier*, 7 Sept 1841, Obituary.

<sup>82</sup> *Courier*, 5 April 1844. As cited in Wayne Index, AOT.

<sup>83</sup> Statham, *The Tanner Letters*, pp. 83-5, 100, 104-108.

<sup>84</sup> *Australian Dictionary of Biography*, Vol. 2, entry Richard Willis p.604 - 605. See also Richard Willis, *Correspondence File*, AOT, undated manuscript by Edward Willis, *Origin of Family*, AOT.

in 1842 and returned home.<sup>85</sup> Last to leave was James Sutherland who took longer to build his wealth. His modest £500 capital of 1823 eventually returned him a fine profit, despite his initial alleged poor farming techniques.<sup>86</sup> He sold his extensive acres in 1855 to return to Britain.<sup>87</sup>

None of these settlers had ambitions to settle permanently in the colony and achieve personal political power or lasting social status—their aims were more modest. They wished for a comfortable and obscure retirement amongst their own countrymen.<sup>88</sup> Those who did stay, Leake, Horne, Wood and Crear remained district notables and farmers and in various ways contributed to the creation of the new and politically powerful middle class. Not all of them remained financially successful. Wood lost most of his capital in the late 1830s, after mortgaging his land to finance his sons' failed farming ventures in the Port Phillip District. He had to sell his land to repay the debts, but leased it back from the new owner, and with one of his sons, he continued to farm it as a tenant, until he died aged in his eighties.<sup>89</sup>

The men elevated to the magistracy by Arthur had acted as his agents to exert control over the convict men and women working in the district. Arthur chose these men because they were respectable, wealthy and had farms that were strategically situated so that the whole district could be closely controlled. It is less clear why all of them

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<sup>85</sup> *Courier* 25/3/1842, also cited in William Gray, *Wayne Index*, AOT. Gray offered Rockford for sale as he intended leaving the colony. It consisted of 2560 acres free of quit rent and 2560 acres adjoining that was clear of quit rent and an additional 640 acres adjoining with large deposits of limestone that was purchased. Also 2 grants consisting of 400 acres on St Pauls River and 2560 acres in 4 lots near Heaney's farm, with the Elizabeth River running through. See also *Murray's Review* 17/5/1843, as cited in William Gray, *Wayne Index*, AOT. On 17 May 1843 Gray sold up for 17/6 acre due to the economic depression.

<sup>86</sup> Statham, *The Tanner Letters*, p.84. The Viveashes were critical of Sutherland's farming skills and application to the task. Ellen claimed he preferred to spend his time on his duties of Coroner and Inspector of Breweries. For a different view, see also Anne McKay (ed.), *Journals of the Land Commissioners for Van Diemen's Land 1826 – 1828*, facsimile edition (Hobart, University of Tasmania, 1962), pp. 79-86. The first surveyors who inspected Sutherland's farm noted how astute he was at acquiring control over Crown land bordering his grants.

<sup>87</sup> *Examiner*, 24 Nov 1855 as cited in J C Sutherland, *Wayne Index*. AOT. Paper reported Sutherland was offering Rothbury farm of 3469 acres for sale as he was returning to England.

<sup>88</sup> Roe, *Quest for Authority*, p.81. "Transient money seekers" according to Roe were scorned especially by the native born in New South Wales. However there are many examples of them from the first fleet onwards in both colonies. For them, the harsh physical and social conditions of the colony were less appealing than England, where they returned as soon as they had enough money to live there comfortably.

<sup>89</sup> William Wood, *Correspondence Folder*, AOT. A typed copy of a letter to his cousins dated 20 August 1858.



accepted the governor's commission, especially those younger men, who in other ways had indicated their support for the social and political changes sweeping Britain. Was it to gain pecuniary advantages from the governor? Or elevate themselves to be amongst the first citizens of the district? Or because of a sense of public duty? Regardless of their personal reasons for accepting their commissions, they effectively found they could exercise little personal power as Arthur's machinery of justice enclosed them as tightly as it did the convict defendants in the courts. Their freedom lay in their ability to make and retain wealth.

### Chapter 3: Who were the convict police and were they corrupt?

Of all the groups of convicts in the Campbell Town police district in the 1830s, the convict police were the most visible. They had a greater impact on their community than any other group of free or unfree workers but occupied an ambiguous place in colonial life. Dressed in their blue coats and drabs, handcuffs jingling from their belts with sometimes a musket slung over a shoulder, they rode out to the remote police outposts and farms, and tramped the roads delivering prisoners to Launceston or to a road gang. Some carried red truncheons inscribed with VDL in gold as they walked the village streets on watches.<sup>1</sup> Often they could be found at the local jail or watch house or attending the magistrate's court, busy with police duties. On a Sunday they sat in the front pews of the Anglican Church in Campbell Town with the police magistrate and his officers, their uniforms neat and clean, wearing their white gloves. This sight infuriated at least one local observer who described them as "dressed in the first fashion", a perfect example of "puppyism".<sup>2</sup>

Robson's study of a 5% sample of all transported convicts found that most of the male convicts were aged between twenty and twenty four years when landed, although English rural convicts were likely to be a little older, and at least half of the convicts were married.<sup>3</sup> Two thirds of them were English and the remaining third, Irish.<sup>4</sup> Convicts were predominantly urban with over half of them convicted in counties where there were industrial towns and a further 17% from London.<sup>5</sup>

Most contemporary observers believed that the majority of convicts came from a professional criminal class, although analysis of the indents strongly suggests that this was not the case. The majority of male convicts were convicted of relatively minor property crimes and just over 40% were transported for either their first or second conviction, although there are some doubts about the accuracy of the number

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<sup>1</sup> Several such truncheons are in the collection of the Queen Victoria Museum and Art Gallery, Launceston.

<sup>2</sup> *Colonial Times*, 'Veritas', Letter to the editor, 11 August 1835, p. 254 and a letter from 'A Constant Reader' from Campbell Town, 10 November 1835.

<sup>3</sup> Robson L.L., *The Convict Settlers of Australia*, Carlton, Victoria, Melbourne University Press, 1965, Table 4(g) Age, p.182 and Table 5(f), Marital Status, p. 191.

<sup>4</sup> *Ibid*, Robson, Table 5(h), p. 191- Native Place.

<sup>5</sup> *Ibid*, Table 4(d), Counties of Trial, p. 178.

of prior convictions recorded for each convict in both British and Van Diemen's Land records.<sup>6</sup> Contemporary evidence from the London police estimated that thieves operated successfully for an average of six years before being caught and convicted, so many who were transported for their first conviction may have had a more extensive personal history of petty theft than their records reveal and may have started breaking the law as young as fourteen or fifteen years.<sup>7</sup> Very few (3%) were transported for the more serious crimes of murder, assault, kidnapping or rape. A further 3% were military men convicted by courts martial for military offences.<sup>8</sup> As subsequent historians have pointed out, however, it is easy to get misled by records of criminal activity and ignore other wider benefits that transportation brought to the Australian colonies.

In contrast with earlier historians, Nicholas *et al* saw the convicts as Australia's first working class migrants and part of the international movement of labour in the nineteenth century. As the contributors to *Convict Workers* pointed out British convicts were young and fit and possessed relatively high literacy rates and many had valuable trade skills. Ninety per cent of convicts were young men and this unique age/sex distribution contributed to the rapid economic growth of the Australian colonies before 1840.<sup>9</sup> Although not all convicts could adapt to the tough conditions endured by workers in the early settlements, most found useful employment while under sentence, and when freed found ready work.

This chapter will examine a unique group of convict workers: the colonial police. It will look at the ways in which the convict police of the Campbell Town police district met or differed from the general profile of male convicts in Van Diemen's Land and examine how perceptions about their backgrounds helped influence

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<sup>6</sup> A.G.L. Shaw, *Convicts and Colonies, A Study of Penal Transportation from Great Britain and Ireland to Australia and other parts of the British Empire*, London, Faber and Faber, 1965, p. 152 and Robson, *Convict Settlers*, Table 4(b) Male sample: Former Offences, p.176 and *Ibid*, Table 9 (e) Offences by Colony, p. 210.

<sup>7</sup> Robson, *op cit.*, p.38

<sup>8</sup> *Ibid*, Table 9(e) Offences, p. 179.

<sup>9</sup> Stephen Nicholas (ed), *Convict Workers: reinterpreting Australia's past*, Cambridge, Cambridge University Press, 1988, p.200. For lists of work skills claimed by convicts in their indents see pp 222 – 224, Tables A17 "Armstrong Skill Classifications", and Table A18 "Nicholas-Shergold Skill Classifications".

contemporary opinion and helped fuel the increasing public campaign waged against the police establishment. Finally it will use the magistrates' bench book for 1835 to examine the charges and disciplinary actions brought against the district's convict police to investigate whether or not the general charges of corruption against police were warranted for this group of rural constables.

The Campbell Town magistrates' bench book for 1835, recorded the personal identifying data of name, ship and sentence length, for each convict who was charged and brought before the bench. Additional information was included about the convict's current employment, usually with the master's name or the gang name (e.g. Spring Hill road party) or government employment type (e.g. carpenter on loan from the government). The charge or charges were clearly set out, sometimes including information about the day, date, time, arresting person/officer and place of the alleged incident. If the prisoner pleaded guilty, there were generally no further notes, and the sentence was recorded. If the prisoner pleaded not guilty, or if there were significant issues about the case, the court clerk would write a summary of the case presented to the bench. The summaries varied in length from several lines to several pages in a quarto volume.<sup>10</sup>

The bench book records enable a working model of the convict police establishment in the Campbell Town district to be reconstructed for 1835. Around forty five men occupied positions under the leadership of the police magistrate in Campbell Town. His senior officers consisted of the chief district constable, who had operational responsibility for the district police, assisted by two district constables: one in Campbell town and one in Ross. A settler's son was appointed clerk to the magistrate, and a district surgeon was responsible for the health of the district's convict workers. An additional divisional constable was attached to the executive group. All were free arrivals as was generally the case for the senior officer positions in the rural police establishments. The police establishment consisted of three special constables, who probably also had duties as pound keepers, and between 28 and 32 field police or petty constables, some of whom had permanent duties as watch house keepers or javelin men at Campbell Town and Ross. Most of the constables were

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<sup>10</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT.

convicts. Thomas Hughes, a married emancipist, was in charge of the Campbell Town jail and flagellators were located there and at Ross. The petty constables were rostered for general duties throughout the district. Due to the dismissal and suspension rate, at least forty one different men occupied the thirty two positions during 1835.<sup>11</sup>

Campbell Town police had mostly been tried and sentenced in the area around London or the industrial counties of Northern England, as were the majority of transportees.<sup>12</sup> Seventeen of the 41 Campbell Town district police had been tried in the south eastern counties of Middlesex, London, Surrey, Kent and Sussex. The rest were scattered throughout the eastern and western rural counties. These were mostly industrial counties where the textile and cotton industries, and the mining, metallurgy and cutlery industries were established and included Gloucestershire, Warwickshire, Staffordshire, Lancashire, Yorkshire, Lincolnshire and Glamorgan. One was sentenced in Rutland. But although a number of Irish and Scottish counties were also listed in the top third of counties from which convicts were sentenced, no Campbell Town constables appeared to have been sentenced from either of these places. It is worth considering that the counties of trial were not necessarily the same as the counties in which the convicts had been born or always lived in, as the early nineteenth century workforce was relatively mobile and many working class men and women shifted round the country looking for work.<sup>13</sup> Even so, Irish and Scottish recruits were absent from the local cohort of police. As well, the composition of local police differed substantially from New South Wales, where around 70% of the Sydney convict police were Irish, and in the rural areas where most police were

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<sup>11</sup> Of the 44 constables who served in 1835, one was a free arrival, 38 can be positively identified as convicts in the convict records, and the remaining 5 men are only identified in the Benchbook by their family names, which is inconclusive in determining who they were- either as convict or free.

<sup>12</sup> Robson, *op cit.*, p. 178, Table 4(d) Robson lists the counties from which the highest number of men were transported in numerical order. The highest third of counties are listed here with the numbers of Campbell Town police convicted in these counties listed in brackets: London (5) and Middlesex (6), Lancashire (2), Dublin (0), Yorkshire (3), Warwickshire (3), Surrey (3), Gloucestershire (2), Kent (2), Cork (0), Overseas (1), Somerset (0), Staffordshire (1), Essex (0), Cheshire (0), Norfolk(0), Tipperary (0), Harts (0), Midlothian (0), Lanarkshire (0), Wiltshire(0), Limerick(0), Sussex (1), Worcestershire(0), Devon(0), Wales (1), Lincolnshire (2). A number of police, mostly early arrivals, did not have the county of trial listed on their records.

<sup>13</sup> Stephen Nicholas, *Convict Workers*, p. 8. In their sample of 17000 convicts, Nicholas *et al* argue that 38% of British and Irish convicts had moved county prior to their transportation. 12% of Irish convicts had shifted to England prior to transportation.

recruited from amongst ticket of leave or freed men up to the 1840s as they were considered “more under control” than migrants.<sup>14</sup> By contrast the police in the Campbell Town district included only four ticket of leave men and one free recruit in their ranks.

The majority of the Campbell Town police had either been brought up in rural towns or counties or had lived or worked in them prior to being transported, which gave them some affinity with the local rural community. Despite this, the irony of appointing convicted men as police was offensive to the community, even though there appeared few other alternatives. They were in fact the only mechanism for social control that the administration had, as both religion and deference had failed to create social order in the colony.<sup>15</sup> The offences for which Campbell Town police were convicted did not differ from those which convicts as a whole were charged.<sup>16</sup> Seven of the constables received 7 year sentences for stealing goods such as a roll of silk, linen sheets, 30 pieces of brass, a bed or stealing from the person. Those with 14 year sentences included some with convictions for housebreaking, uttering a forged note, stealing slates, and stealing two donkeys. The larger number of constables with life sentences included convictions for sheep and horse stealing (3 men), stealing a boat, stealing from the jail, stealing from the person or stealing wearing apparel (5 men), burglary or house breaking (7 men), highway robbery (2 men) and one for a military offence. No local constable had been sentenced for the crimes of assault, murder, kidnapping or rape. However, the fact that many had life sentences and their felonies included animal theft, house breaking and highway robbery may have influenced local people to doubt the wisdom of appointing prisoners convicted of serious felonies to the local police force, and fostered ongoing suspicions about the probity of their behavior as police.<sup>17</sup>

But there were also some differences between Robson’s general sample of male convicts and the small group of local convict police. Around 60% of the police had

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<sup>14</sup> Michael Sturma, *Vice in a vicious society*, pp. 163-164.

<sup>15</sup> *Ibid*, p. 124, 163.

<sup>16</sup> Robson, op. cit., p. 34

<sup>17</sup> CON 31, AOT. Individual conduct records (CON 31) were consulted for convictions. Early CON 31s did not always include a statement about the person’s conviction. Some CON 31 records were missing or damaged.

life sentences, while only 25% of the general sample did.<sup>18</sup> There seemed to be a greater incentive for men with longer sentences to become police, perhaps hoping to reduce their sentence with good behavior or even a pardon if they caught a bushranger or committed some other act of outstanding service. Furthermore, only ten constables acknowledged they had been married in Britain but of these only four had their wives living with them in Campbell Town after they were appointed as police. Predominantly the local police were men with life sentences who were single or separated from their wives.<sup>19</sup>

Arthur liked to imply that there were specific and perhaps rigorous, selection procedures for convict police in Van Diemen's Land. He told the Molesworth Committee that they tried to select men with the "best character, active, intelligent" from every transport who "generally know the characters of the men who have accompanied them on the voyage." He also argued that a key attraction of the job was that their conditions were "undoubtedly better than others; if they do their duty well they are continually brought under the notice of the authorities." However, despite his optimism about the superior conditions of the job, he acknowledged that it became increasingly difficult to fill vacancies and so "some bad characters had to be appointed."<sup>20</sup> This was in part caused by the need to reappoint some convict police from the large numbers who had been charged with misdemeanors and had been sentenced to a road party. Although in the late 1820s, Josiah Spode, then assistant police magistrate, may have recruited convicts directly from the convict ships; by 1832 he believed this recruitment strategy had many defects.<sup>21</sup> If the 1835 recruitment data in Table 3.1 is typical, it would appear that by the mid 1830s the practice of recruiting from amongst new arrivals had greatly reduced although Arthur claimed that the practice continued until he left the colony.<sup>22</sup>

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<sup>18</sup> *Ibid*, Table 9(c) Period of Transportation, p. 209 and CON 31, Conduct Records, AOT. Of the Campbell Town police, 25 had life sentences, 8 had 14 years, 8 had 7 years.

<sup>19</sup> Con 18, 23, 31. AOT.

<sup>20</sup> Great Britain, Parliament, House of Commons, Select Committee on Transportation, *Report from the Select Committee of the House of Commons on Transportation*, Sir William Molesworth, chairman of the committee, (Adelaide, Libraries Board of South Australia, 1967), Qu: 4443, Vol. 1, p. 302.

<sup>21</sup> CSO 1/252/6040, Spode to Burnett, 21 February 1831, AOT.

<sup>22</sup> Stefan Petrow, "Policing in a Penal Colony: Governor Arthur's Police System in Van Diemen's Land, 1826-1836", *Law and History Review*, Summer 2000, Vol. 18, No.2, p. 371.

Table 3.1 (a): Selection criteria: All convict police appointments in Van Diemen's Land in 1835, by the year in which the convict first arrived in VDL.

YEAR Of Arrival In VDL	1835	34	33	32	31	30	29	28	27	26	25	24	23	22	21	20	19	1818	Total
TOTAL convicts appointed	6	14	42	24	22	22	15	8	13	1	2	3	1	5	1	4	1	3	187

Source: "Police Notices", *Hobart Town Gazette*, weekly, 1 January to 31 December 1835. Also CON 31 and CON 18, AOT, for individual men in Campbell Town police.

Table 3.1 (b): The years in which individual constables of the 1835 cohort of the Campbell Town police first arrived in Van Diemen's Land .

YEAR Of Arrival In VDL	1835	34	33	32	31	30	29	28	27	26	25	24	23	22	21	20	19	1818	Total
Number who arrived in VDL(year)	0	1	7	3	7	5	4	3	3	1	3	-	3	1	-	-	-	-	41

Source: "Police Notices", *Hobart Town Gazette*, weekly, 1 January to 31 December 1835. Also CON 31 and CON 18, AOT, for individual men in Campbell Town police.

In 1835, only six convicts were recruited in the entire colony directly from transport vessels and only a further thirteen were appointed within a year of arrival. Instead, there appeared to be a preference to appoint convicts who had between two and five years experience working in Van Diemen's Land. Table 3.1 shows that 125 of the 187 convicts, appointed to the position of constable in 1835, had arrived in the colony between 1829 and 1833. The largest group within this cohort was the 42 men, who had arrived in 1833.<sup>23</sup>

A small number were reappointed having been previously dismissed from the police, some having served a sentence in a road party or chain gang. It is also likely that

<sup>23</sup> Table 4.1 does not include 18 additional convict appointments whose arrival date in VDL could not be matched with ATO records. It also does not include the additional 85 police appointments of men who arrived free in VDL or were freed in the month of their appointment. Of these, 35 were at the "constable" level, the rest were to higher level positions e.g. market constable, special constable, district constable or chief district constable. Data is limited about when most of these men arrived in the colony and what experience or skills they had. So 35 free men and 187 convicts were appointed as constables in 1835; an additional 50 free men were appointed to the higher positions of market constable, special constable, district constable or chief district constable. A small number of these higher appointments may have been emancipists.



many among the 35 constable appointments who were free men were emancipists; although it was impossible to identify time served recruits since the *Police Notices* did not record the ship and police numbers for freed men.

Of the twelve constables appointed to the Campbell Town police in 1835, none were recruited directly from a transport vessel. Eight had been assigned or had worked in government jobs since they had been landed.<sup>24</sup> Four were reappointed after serving in gangs for previously breaking police orders, others were old hands some having arrived as early as 1822 and as such, their collective knowledge of the convict colony was considerable. Within the force there were six men aged between 37 and 44 who had worked in a variety of locations on the island, both in assigned service and in some cases in road parties and penal stations like Maria Island.<sup>25</sup> Table 3.2 shows that the force also had a main spread of active men aged between 24 and 34 years, many with colonial experience in other assigned or government positions.

Table 3.2: Selection criteria: the ages of men in the Campbell Town convict police in 1835.

Age in 1835	21	23	24	25	26	27	28	29	30	32	33	34	37	38	39	41	42	44
Number of men in age group	1	1	3	1	5	3	1	3	2	1	2	3	1	1	1	1	1	1

Source: Con 18, Con 21, 22, 23. *Description Lists*, ATO. Note: Unable to determine age of 9 of the 41 men, ATO series incomplete or page damaged.

The oldest constables were Thomas Greenaway, a police clerk aged 44 years, who worked at the Campbell Town police office and Robert Fear, aged 41, a ticket of leave convict. He was appointed directly to Richard Willis's farm where there was a need for a constable to be stationed, because of the danger of bushrangers and absconders. There was also a pound at the farm, which he may have overseen. These

<sup>24</sup> *Government Gazettes*, Police Notices, 1 January 1835 to 31 December 1835, AOT. These were: John Beard, 1834, *Circassian*; William Eastwood, 278, *Royal George*; John Williams, 1677, *John 2*; William Drinkwater, 825, *Surrey 2*; John Atkinson, 488, *Elizabeth*; George Banning, 1448, *Clyde*; Robert Fear, 321, *Asia 2*; John [Pat] Flynn, 542, *K S Forbes*; William Morgan, 985, *K S Forbes*; Thomas Duxberry, 970, *William Metcalfe*; Charles Roberts, 763, *Lord Lyndoch*. One free arrival, Thomas Moore, was appointed.

<sup>25</sup> Philip Hilton, 'Spreadsheet of Military Convicts in Van Diemen's Land', University of Tasmania, 2005. Terence Macmanus had been made a constable at Maria Island after being sentenced there for attempting to shoot a man.

jobs and those of the watch house keepers would have been seen as less arduous than the escort duties, night patrols and monthly rosters to remote police offices that most constables were expected to perform.

As well as preferring to appoint active men in their mid twenties to mid thirties, tall men and former soldiers were also reputedly sought after as recruits for the convict police. Such men were seen as physically able to control convicts who could be drunk or fighting. While the average male convict was 5 foot 4 inches, almost one half of the Campbell Town police were taller than this, with at least ten of them either five feet eight inches or taller.<sup>26</sup> Three former soldiers were serving under the police magistrate in 1835. Terence Mcmanus was a constable who arrived in Van Diemen's Land in 1823 on the *Commodore Hayes*. He received a life sentence for deserting from the 4th or King's Own Regiment in the West Indies, where he cut off two fingers on his left hand, which made him unfit for further military service.<sup>27</sup> The other two had positions at the Campbell Town jail. Thomas Hughes, an older married emancipist, was in charge of the jail. He had arrived on the *Medway* in 1825. His flagellator at the jail, Thomas Woodley, was also a former soldier who arrived in 1833 on the *Circassian*.<sup>28</sup>

Because of the high turnover rate of convict police across the island, individual police offices were likely to experience disruption and difficulties in managing a constantly changing parade of constables. Men tended to try and stay to earn an early pardon or ticket of leave and those who survived the strict discipline without being dismissed, were lifers who became the longest serving constables. However most constables resigned when freed, which suggests that few convict police regarded policing as a permanent career. In the first six months of 1835, 43 constables across the island resigned when freed. By contrast only ten resigned when they received their tickets of leave perhaps because they had secured alternative employment or

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<sup>26</sup> Stephen Nicholas & Peter Shergold, 'Convicts as Workers' in Stephan Nicholas (ed.), *Convict Workers*, Table 5.9 Height-by-age of Convict, Poor London & Factory Boys and Table 5.10, Height of Convicts by Date of Birth, Birthplace and Sex, Cambridge, Cambridge University Press, 1988, pp. 80-81. Also, Con 18 and Con 21, 22, 23, Description Lists of convicts, AOT.

<sup>27</sup> Philip Hilton, 'Database of Military Convicts in Van Diemen's Land'. University of Tasmania, 2005.

<sup>28</sup> *Ibid.*

had a trade, which could earn them better remuneration than policing. If so, this is in line with the way that working-class British men sought employment with the Metropolitan Police. They joined during hard times but resigned to take up other employment when it became available. Some British occupation groups such as agricultural labourers and gardeners tended to stay the longest, as policing offered them better conditions and was preferable to their former employment or to Poor Law relief.<sup>29</sup>

It appears that convict police in Van Diemen's Land exercised a similar strategy of rational selection about remaining as constables, as did their peers in the Metropolitan Police in Britain. Those who were not dismissed had to weigh the alternative forms of employment available to them, both while they were still serving convicts, and after they had a choice of other employment through a ticket of leave or freedom. Constables could manipulate the dismissal system, if they wished to, as easily as assigned convicts could attempt to change their master by being put on a charge and returned to the Crown. As such, convict constables had considerable agency in choosing to leave the job, or stay till a time most suitable to themselves. In Van Diemen's Land in 1835, 125 men were dismissed from a total police establishment of 291 field police and constables.<sup>30</sup> The high dismissal rate amongst convict constables may have not only been a product of the strict discipline under which they worked, but may have also reflected the deliberate flouting of rules as a strategy to exit an unpopular job.

The high rate of appointments, dismissals and suspensions across the island was reflected in the Campbell Town district. Table 3.3 shows that there was a net loss of seventeen police during the year with at least twelve new appointment and four resumptions.

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<sup>29</sup> Haia Shpayer-Makov, 'The Making of a Police Labour Force', *Journal of Social History*, Vol.24, No.1, (1990), p. 128.

<sup>30</sup> *Government Gazettes*, Police Notices, op. cit., 1835, AOT and *Hobart Town Almanack and Van Diemen's Land Annual*, James Ross Printer, Hobart Town, VDL, 1835, pp. 50-51.

Table 3.3: High turnover rate of convict constables in the Campbell Town district force in 1835.

New appointments	Suspended and sentenced to road party for dereliction of duty	Resumption of police duties after sentence to road party completed.	Dismissed sentenced to road party	Resigned	Total number of field police & constable positions
12	9	4	6	2	36

Source: LC83/1, Return of Cases Heard, Magistrates Court, Campbell Town, 1835, AOT.

Only twelve of the constables, who could be clearly identified, worked for the whole year without a break in service. Whether Campbell Town had an unusually high turnover of staff cannot be determined until staffing turnover in other rural police establishments is examined. It would certainly be difficult to manage a turnover of one third of the complement, especially during 1835 when three different men occupied the position of chief constable. It would have been a significant task for a local police office to absorb and train twelve new recruits in one year in an active contingent of just 36 men.<sup>31</sup>

While physical characteristics were important for a physically demanding job, Nicholas *et al.* has emphasized the importance of convicts' trades and their contribution to the prosperity of the colony. Over 95% of them had an occupational status recorded on their indents, some with more than two occupational skills.<sup>32</sup> Nicholas found that the trades or skills represented a cross section of the British working class from both rural and urban areas and in addition they had high rates of literacy. Up to 75% could either read or write, while up to 46% could do both.<sup>33</sup> Only one convict policeman signed the Campbell Town bench book with a cross after giving evidence. Table 3.4 lists the sixteen constables who also had job or trade skills that could be desirable for a self sufficient police establishment in a rural area.

<sup>31</sup> Ross, *Almanack*, 1836, p. 28. The complement of 36 positions consisted of 3 special constables (mounted) and 32 field police in 1835.

<sup>32</sup> Nicholas, *Convict Workers*, pp. 65, 67, 82.

<sup>33</sup> *Ibid*, pp. 75, 82.

Table 3.4: Trades of Campbell Town Police- 1835.

Former trade	Constables
Blacksmith	Chas. Dewhirst
Brass founder	Isaac Bowater
Painter & glazier	Chas. Christmas
Tiler and riveter	Robert Fear
Clerk	Thos. Greenaway
Miller & baker	John Smith (also javelin man)
Kitchen gardener	Thos Duxberry
Kitchen gardener	John Duxberry
Kitchen gardener	John Flynn
Kitchen gardener	Michael Beard
Shoemaker	John Atkinson
Groom	Richard Kirby
Groom & horseman	John Bowtell
Horse & cattle management & ploughman	Will Dixon
Ditto- ploughman	Will Drinkwater
Ditto- ploughman	Will Edmonds

Source: Con 18 and Con 21, 22, 23, *Description Lists* of convicts, AOT.

The special constables were mounted but the other constables also needed to have this skill to be able to cover the distances required to deliver orders to distant outposts like Fingal, Avoca or the Lake River.<sup>34</sup> It added to the unit's self sufficiency to have metal workers like a blacksmith and brass founder available for horse and harness work, as well as men such as grooms and ploughmen, who were used to stabling and working with horses or cattle and could manage the pounds or supervise the government bullock carts and teach handling skills to other police.<sup>35</sup> A convict clerk was needed to assist the paid clerk George Emmett, especially with the large number of reports and compilations that had to be sent to Hobart weekly and the documents issued to convicts. Greenaway attended to a number of significant clerical tasks, including signing the pay orders for the policemen.<sup>36</sup> The kitchen gardeners very likely produced much of the produce needed for the police barracks and jail, as well as tending the magistrate's garden. One letter writer complained about the use

<sup>34</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of John Johnson, 12 January 1835, AOT. Johnson was ordered to ride to Fingal over the weekend and deliver a packet containing pay abstracts and a cheque for the post master.

<sup>35</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trials of Richard Cloak & Isaac Bowater, 4 April 1835, AOT. These two police were in charge of a team of bullocks and horses and a group of convicts moving up the main road to join a convict road party, when they camped on Capt Wood's property for the night without first seeking his permission. A letter to the *Colonial Times* from "Veritas" on 11 August 1835 alleged that two police in charge of the pound kept a butcher shop and one rode about buying cattle.

<sup>36</sup> *Colonial Times*, Letter to editor from "Zetis", 25 August 1835, p. 270 identified convict policeman T.G. Greenaway as the clerk who signed the police pay orders in the Campbell Town office.

of constables for this purpose.<sup>37</sup> Likewise Smith, the miller/baker could have been employed in supervising the bakery for the barracks and jail.<sup>38</sup> The need for a shoemaker for the unit is self evident.

With the continued expansion of buildings on the government compound in Campbell Town, it would be surprising if Christmas, the painter and glazier, didn't spend part of his hours at his trade. With the exception of Smith, the other constables with skills could be out posted if needed both for regular police work, and to assist with their special skills. The work of a rural police unit consisted of much more than just street patrols and watching the highways for absconding convicts. It functioned in some ways like any large residential closed community: the jails, hospital wards, barracks, watch houses and police huts had to be serviced with food, clothing and other necessities; animals moved or housed and cared for; workshops were needed to service carts, make and store building supplies and secure tools; stores had to be ordered and distributed; and accounts be managed. Three others ran their own small businesses, in partnership with wives, while still serving as police. Charles Englebert and Robert Inglebert were brothers who managed the Campbell Town pound and also ran their own butcher shop with the help of Ann, Robert's wife.<sup>39</sup> Another married constable, John Duxberry, lived in his own dwelling and took in boarders, including the local school teacher.<sup>40</sup> The skills range of the convict police in Campbell Town in 1835 appeared to be varied and met many of the complex needs of a rural police district.

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<sup>37</sup> *Colonial Times*, Letter to editor from "A Constant Reader", 15 September, 1835, claimed the police magistrate kept six to seven constables busy engaged in his private service and in 9 September edition clarified that constables were working as carpenters, gardeners etc instead of attending to their work. This member of the public did not accept that constables may have other duties in helping run the police establishment or participate in the building program on the government buildings. The public perception of some was that this was not part of their duties.

<sup>38</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of John Smith, 9 July 1835, AOT. Smith the baker and javelin man had access to the jail food supplies and twice paid a convict in tea and sugar for a previous debt he owed.

<sup>39</sup> The brothers spelt their family name differently, a case perhaps, of a clerk's mistake on an indent that became reality for the two men.

<sup>40</sup> LC 75/1, Court of Requests Benchbook, 1835, ATO. Charles Englebert and Robert Inglebert, (different family name spellings on their convict records) were brothers. The Court of Requests records indicate that the three Ingleberts and Duxberry took creditors to court to obtain money owing to them in 1835.

The complementary range of skills, spread of ages, and experience of the police was clearly not the product of the haphazard hiring of applicants by the administration in Hobart. All police magistrates had the opportunity to review potential police appointments and recommend whether or not the men should be appointed to their office. It is known that police magistrates made recommendations to Hobart for appointments to all government positions in their districts, including police. For example, Frederick Forth rejected the reinstatement of a former constable when asked for his recommendation by the chief police magistrate.<sup>41</sup> Potential local recruits would be well known to local justices of the peace in any rural district.<sup>42</sup> From this perspective, a whole range of criteria may have been taken into account including steady behavior, the ability to command men, former trade experience, and knowledge of the colony or particular cohorts of convict arrivals, in addition to the height and age criteria. By recommending particular local recruits and rejecting the appointment of any they considered unsuitable, police magistrates may have had some influence over the composition of the establishment under their control, even though most appointments may have been made in Hobart with minimal consultation with the local police office.

It is not surprising that settlers were uneasy and sometimes hostile about the use of convicts as police considering that their original convictions in Britain and their reported suspensions from police work were well known through gossip and newspaper reports. The *Cornwall Chronicle* at first supported the convict police and assigned blame for their inefficiency and petty corruption to the administration in Hobart. It was particularly scathing about the low wages and poor conditions which contrasted unfavorably with those that private masters provided for their assigned servants.<sup>43</sup> The newspaper offered constructive suggestions about how police standing orders could be improved to reduce vexatious arrests for drunkenness and

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<sup>41</sup> POL 35, Campbell Town, Miscellaneous papers, AOT. See correspondence dated 11 February 1839 from Josiah Spode, Chief Police Magistrate to Frederick Forth, police magistrate at Campbell Town and Forth's reply dated 25 March 1839.

<sup>42</sup> Con 31, John Duxberry, 930, *Marmion*, ATO. Duxberry, had been assigned to a local store keeper, George Emmett, for several years before being appointed a constable at Campbell Town.

<sup>43</sup> *Cornwall Chronicle*, 28 February 1835, Editorial. Editor took up the cause of convict police complaints of having to pay 3d a night to lodge in the police barracks on "a miserable straw bed" and their poor rates of pay. See Stephan Petrow, 'Policing in a Penal Colony', p. 369. At 2 shillings a day, VDL police were the lowest paid in the colonies. This was further reduced to 1/9 per day in 1832, while in NSW, Sydney police were paid 3/9 per day, and rural police paid 2/9 per day.

bad language. In particular it suggested that witnesses, other than the arresting police officer, should be required in court and that greater authority should be provided to the officer in charge at the watch house, when men were brought in and charged. These changes could reduce the allegations that police frequently made false arrests to increase their incomes by obtaining a portion of the resulting fines.<sup>44</sup>

Colonial newspapers reported many claims of assault, bribery, false arrest, corruption, and unwarranted surveillance mostly perpetrated by individual police against ticket of leave men and emancipists.<sup>45</sup> By mid 1835 two new themes had emerged in the reporting of police behavior. Clashes between the convict police and the free working class emigrants, who were not easily distinguished by dress or manners from working class prisoners or emancipists, were said to be on the rise. In addition there was general outrage when respectable middle class settlers were rounded up by police for transgressing against the new Town Planning Acts or the unpopular Dog Act and Impounding Act. The two issues united both middle class and working class letter writers. Sturma saw this as part of a competitive struggle between the colonial middle and working classes to define themselves separately from convicts and lay claims to their own class concepts of respectability.<sup>46</sup>

Although newspapers complained about attempted false arrests by police, some incidents they described showed that the system recognized the problem and punished police for unlawful behavior or made restitution. A young free emigrant woman was arrested by a “drunken” constable in Launceston, despite witnesses telling him she was a free woman. She was rescued from the constable by a baker who took her into his shop. The constable was charged and sentenced to a road party for twelve months.<sup>47</sup> A letter writer reported a case from Campbell Town of a constable who removed a traveler from the bedroom of a local inn on the pretext that he was drunk and disorderly, when in fact he was asleep. The man was kept over the weekend in the local jail and illegally charged three shillings for his board by the jailer. When he was brought before a magistrate on the following Monday the case

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<sup>44</sup> *Cornwall Chronicle*, 21 June 1835, p. 3. Also see 11 April and 18 April, p. 4.

<sup>45</sup> Stephan Petrow, ‘Policing in a Penal Colony’, pp. 378 – 386. See Petrow for an extensive list of the types of complaints against police that were reported in newspapers between 1834 and 1836.

<sup>46</sup> Michael Sturma, *Vice in a Vicious Society*, p. 6.

<sup>47</sup> *Cornwall Chronicle*, 10 October 1835, p. 3.



was dismissed. Later it was reported that the police magistrate wrote to Hobart to have the money refunded to the traveler.<sup>48</sup>

The *Colonial Times* claimed it did not object to well behaved prisoners being made police, but argued that twice convicted felons should not be appointed:

It is shameful as respects the prisoner population, it is bringing men who have been unfortunate, into collision with the Colonists, by which feelings and antipathies of the most unpleasant and injurious are called into operation, and besides look at the number of well behaved men, who have by good conduct obtained their indulgences – and are such not more fitting to be appointed peace officers, than twice convicted felons?<sup>49</sup>

Newspapers sometimes failed to acknowledge the responsibilities of citizens to comply with the unpopular acts. The *Colonial Times* complained about a free man who was charged with assaulting a constable when he struggled with the constable to try and release his dog and the constable hit him with his baton. What the paper failed to point out was that the man should not have allowed his dog to be loose in the first place.<sup>50</sup> Another paper complained about the arrest of a pie seller who illegally sold a half pint of gin from under his cart and was prosecuted under the Licensing Act, hardly a victim of two constables trying to entrap him.<sup>51</sup>

In other reported incidents it appeared that some citizens were sharp enough to deflect foolish attempts by convict police to ensnare them. One newspaper recorded the scarcely believable incident of a policeman attempting to charge a publican with infringing the Cart Act, which required all commercial carts be registered and have their registration number clearly painted on their sides. When the publican accompanied the constable into the inn yard to inspect the offending cart, he

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<sup>48</sup> *Colonial Times*, June 17, 1834, p. 158, Letter from 'Campbelltonian'. A follow up letter appeared shortly after in the same paper from 'Zetis' informing readers that the Chief Magistrate had written to the Police Magistrate about the matter, the money had been refunded to the man and the police were no longer picking people up from pubs.

<sup>49</sup> *Colonial Times*, 15 September 1835, p. 292

<sup>50</sup> *Colonial Times*, 11 August 1835, p. 255

<sup>51</sup> *Colonial Times*, 8 September 1835, p. 284

immediately noticed that the cart number had been obscured by freshly applied black paint.<sup>52</sup>

The *Colonial Times* complained about a man being fined twenty shillings for putting rubbish out on the road in Macquarie Street, Hobart. He pleaded that he had intended to remove it later in his cart. His arrest was the result of a complaint from the Surveyor's Office and not initiated by a constable.<sup>53</sup> The middle class acted as "moral entrepreneurs" shaping the concept of respectability to conform to their values and expressing outrage when charges were made against them.<sup>54</sup> While they did not quibble about those of low rank being issued with a summons and taken in front of a magistrate, but they thought it unacceptable for "a respectable well dressed person" to be marched "through the streets with prisoners in irons." For them a police summons was a "painful ordeal" and a "humiliating interrogation from the magistrate" was unnecessary. Rather than have the issue decided by the magistrate, the *Hobart Town Courier* opined that somehow the "knowingly culpable and the unintentionally negligent" should be treated differently, although how the offenders could be easily differentiated by police without creating more problems of alleged corruption was not suggested.<sup>55</sup>

Undoubtedly there were convict police, who made false arrests, attempted to bribe citizens and were drunk on duty. However, the increased reporting of questionable incidents of police corruption in the mid 1830s was also influenced by political factors.<sup>56</sup> In mid 1835, Van Diemen's Land became fully responsible for paying for the high cost of the police system, over £100,000 per year, out of colonial revenue. There was substantial popular opposition to this as the large numbers of police were needed to enforce the convict system, and many argued this was reason enough for Britain to continue to pay for this service. Settlers also argued that the failures of the

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<sup>52</sup> *Cornwall Chronicle*, 28 August 1835, p. 2

<sup>53</sup> *Colonial Times*, June 17, 1834, p. 192

<sup>54</sup> Sturma, *Vice in a Vicious Society*, p. 6.

<sup>55</sup> Petrow, 'Policing in a Penal Colony', p. 385. Reports of middle class complaints about being accountable to the local town ordinances as reported in the *Hobart Town Courier*, *Launceston Advertiser* and *Cornwall Chronicle*. By and large these papers supported the complainants.

<sup>56</sup> Petrow, *Policing in a Penal Colony*, p. 387.

police system to deliver an adequate service, due to the use of convict police, was another reason for them to reject having to pay for police services.<sup>57</sup>

But although newspapers could be overly strident in reporting a case, they saw themselves as watchdogs for the public good and were the only form of effective public dissent available in Van Diemen's Land in the absence of an independent Legislative Council.<sup>58</sup> Reporting incidents of alleged police abuse sent strong messages to the administration in Hobart and to local magistrates informing them that they were being watched and needed to keep strong control over the police. Some papers also published articles suggesting reasonable changes to improve unpopular acts or administrative procedures and provided a genuine public forum to explore reform agenda issues that more liberal settlers of all social levels were keen to see introduced.

On a wider political level, an attack on the police was one way of attacking the administration of Arthur which became increasingly unpopular towards the end of his second term, largely the result of his refusal to support the introduction of liberal reforms such as trial by jury and a more representative Legislative Council. Arthur argued that his police force was instrumental in keeping Van Diemen's Land a safer place with less crime than Dublin.<sup>59</sup> By reporting the failures of some police, newspapers sent a strong political message to the Colonial Office that Arthur's administration was flawed and change was needed.

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<sup>57</sup> *Cornwall Chronicle*, Leader article on p.1, Editor complained of colonists being asked to raise an extra £20,000 to maintain the police and civil establishment. Editor objected but expected this will be the first of many such demands and "likely to be enforced by the bayonette". In a previous leader on 9 May 1835, the editor had opined that "cheap government is consistent with good government" and comparing Tasmania with one of the West Indian colonies, where he argued that there it cost £200,000 to administer for 2 million people, while in Tasmania it cost £100,000 for administration costs for 12,000 convicts.

<sup>58</sup> John West, *History of Tasmania*, (first published 1852), Adelaide, Libraries Board of South Australia, 1966, Vol.1, pp. 174-177. West described the "extravagant excesses" of the Tasmanian press between 1831 and 1836. He argued that there was not much to write about and so squabbles and quarrels were transformed into news which set a strident tone in the press. The free press was the only source of real criticism against the administration. The circulation of and numbers of papers increased due to the improved postal service so that all classes could participate through comments and letters to papers and be involved in the political debates. West failed to see that the virulence of the press could also be the only opportunity for emancipists to express their anger and desire for change, having experienced aspects of the transportation system that they considered unjust.

<sup>59</sup> Arthur, George, Colonel, *Defense of Transportation in reply to the remarks of the Archbishop of Dublin in his second letter to Earl Grey*, London, George Cowie and Co., 1835, p. 94.

More commercial and personal motives also existed. Reports of law enforcers breaking the law were popular amongst all classes of readers. They played on the insecurities of many and the genuine fears that personal liberty and rights were at risk. Such stories helped sell papers.<sup>60</sup> Some periodicals, such as Henry Melville's *Colonial Times* also had personal axes to grind. Melville was a strong supporter of the introduction of liberal reforms but Melville's opposition to the administration had included increasingly intemperate prose and strong personal condemnation of the governor's policies.<sup>61</sup> He had been jailed for a short time after he had been convicted of contempt of court for material he had published about the Bryan case, a watershed judgment that highlighted the deficiencies of the justice system in Van Diemen's Land.

Robert Bryan, the nephew of a settler of considerable wealth, was charged with cattle stealing and sentenced to death, primarily on the evidence of three convict constables. The constables testified that they witnessed the accused driving a small herd of cattle into his uncle's stockyards, several of which were clearly marked with his neighbors' brands. It was alleged that one of the beasts was killed for meat. Although the constables did not see the animal being slaughtered, they argued that a branded hide was found near the yards. The middle class rejected evidence where convict police were the only witnesses. They wanted trial by a jury of citizens to be introduced, who could judge the potential degree of honesty of the witnesses and the strength of the evidence.<sup>62</sup>

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<sup>60</sup> West, *History of Tasmania*, pp. 175-176.

<sup>61</sup> *Australian Joint Copying Project*, Reel PRO 267, 280/64, p.3, 1 January 1836, for Gov Arthur's position about the case against Bryan; and for Melville's position see Melville Henry, *The History of Van Diemen's Land*, Mackaness edition, Part 3, pp. 49 – 53. See *Australian Dictionary of Biography*, op. cit. Vol.1, p. 173 for a brief biography of the Bryans.

<sup>62</sup> *Australian Dictionary of Biography*, Vol.2, pp. 221-222. Melville was jailed briefly in late 1835 by Governor Arthur for contempt of court in the case of Robert Bryan, one of the two serious cases of possible police corruption in that year. Middle class fears were well placed in regard to this case. Arthur let it be known he considered William Bryan as guilty as his nephew and alleged, on the evidence of assigned convicts, that both men had been rustling cattle for years, an assertion that was never really tested at trial. Never the less Arthur removed all of William Bryan's assigned convicts, causing him large losses and eventually resulting in William Bryan selling up his extensive land holdings in Van Diemen's Land. The convicted nephew had his death sentence commuted and served six years at the Port Arthur prison camp.

Police magistrates and district chief constables had the difficult task of making their local constables effective workers in the face of the increasing clamor against the police, some of it justified, some of it exaggerated or spiteful gossip, and some of it politically motivated by the supporters of reforms. In the Campbell Town police district an examination of the magistrates' bench book for the year provides a list of all charges that were brought against the local police either by their senior officers or by settlers. Twenty two of the local police had no charges brought against them in 1835, while the rest had to answer between one and five charges, a total for the year of around 50 court appearances.<sup>63</sup> The charges were mostly for minor offences, often work-related disciplinary issues and drinking. Table 3.5 shows that around 31 police were charged with these types of offences that resulted in admonishment or a fine.

Table 3.5: Number of Charges made against Campbell town police in 1835 by sentence.

Admonished or charge dismissed	Fined between 5/- and 40/-	Solitary cell	Suspension, dismissal, & sentenced to road party or chain gang	Referred Quarter sessions	Total charges for 1835 against Campbell town Police.
14	17	2	15	2	50

Source: LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT.

However, fifteen police were found guilty of taking a bribe, assault, false arrest or corruption. Most of those who were found guilty and punished with suspension or dismissal had also been drinking at the time the offence took place, which may explain their lapse of judgment and was probably a key factor in the magistrate's decision to apply a harsher sentence. All these police were sentenced to a period of time in a road party or chain gang. All sentences, including reprimands and fines were recorded against them on their conduct records.<sup>64</sup> Generally, convicts who served as Campbell Town constables had more reports against them entered on their conduct records during the periods they worked as constables than when they worked as assigned workers for settlers. This can probably be explained by the stricter

<sup>63</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT.

<sup>64</sup> Conduct Records, sometimes called The Black Books, are available for all constables, who can be clearly identified by their ship or police number in the Magistrate's Benchbook. These are the CON 31 records at the AOT. Seven constables from the cohort of 49 who served in the district in 1835 could not be clearly identified, but they had no charges brought against them that year.

standards of discipline imposed on police than for assigned servants and the difficulties of the tasks the police performed.

However, other more uniquely colonial responses were emerging amongst the colonial police, as well as within the general society. Increasing levels of assertiveness were emerging in the colonies, particularly amongst the freed working class, but also amongst convicts. McKenzie argues that colonial culture in the Cape and Australian colonies was changed by the social and economic ambitions of colonists from all classes which worked to transform former boundaries of social status and civil liberties.<sup>65</sup> Even within the highly disciplined ranks of the convict police a new assertiveness started to appear, which sometimes resulted in constables refusing an order. The personal confidence of some of the police, bolstered by the responsibilities of their work, sometimes clashed with their officers' demands for complete obedience and deference. Thomas Moore, a free constable, pleaded not guilty to the charge of neglecting his duty and misconduct when his commanding officer ordered him to return to duty at a remote and unpopular police outpost. As his superior put it:

On Friday morning about 10 o'clock when Thomas Moore signed the abstracts for his pay, I ordered him to return to his station. He said he could not agree with Mr Gatenby and wished his station to be changed. I told him that it would be absolutely three weeks before the changes of the constables took place and to return to his station. He did not return. About one o'clock on Friday I saw him coming out of Mr Broad's (pub) staggering drunk. I ordered Constable Drinkwater to put him in jail.<sup>66</sup>

Moore was fined five shillings for this offence.

William Fogherty, a former labourer aged 25, attempted to reason with District Constable Freestun in Ross when he needed to return to Campbell Town to start his evening shift of night duty. Freestun explained:

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<sup>65</sup> Kirsten Mckenzie, *Scandal in the Colonies*, Carlton, Melbourne University Press, 2004, pp. 4-5.

<sup>66</sup> LC 83/1 *Return of cases Heard, Magistrates Court*, Campbell Town, AOT, trial of Thomas Moore, 5 June 1835.

Yesterday Fogherty asked me if I had any prisoners to go up, I told him I had none and that he was not to leave the station as the judge's luggage was in a house at Ross and had to go forward under his charge. He said he had night duty to do at Campbell Town and would go on. I told him on his peril not to leave his station without any orders. He was very abusive in his language and insolent in his manners. He refused to be controlled by me.

Fogherty was fined forty shillings.<sup>67</sup>

John Johnson, an older convict, defied his commanding officer by failing to leave for Fingal one Saturday afternoon to deliver a package to the post master. Later that afternoon the officer found him drinking in a pub and was astonished to hear Johnson argue that “if he was back on Monday morning in time enough, could he not use his own discretion as to the time of starting.”<sup>68</sup>

In some respects, the attempts of the local police hierarchy to retain absolute control over their men and reject negotiating even reasonable changes with assertive constables was symptomatic of the difficulty the wider convict system had in controlling emerging new social responses against its more repressive demands. By the mid 1830s many sectors of Van Diemen's Land Society of all classes were aware of social and political reforms taking place in Britain and were clamoring for changes such as trial by a jury of citizens which the administration delayed as unsuitable for a penal colony. Assertiveness appeared to be growing in small ways throughout the convict classes in assigned service and gangs as well as within a rural hierarchical police force as a few police started to reject the level of strict control imposed upon them. Tilly saw such responses as a repertoire of small social actions that collectively signaled to an administration that the pressure for change was building.<sup>69</sup> McKenzie saw colonial culture releasing people from the traditional restrictions of their former culture and encouraging their hopes of gaining greater control and success in their

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<sup>67</sup> LC 83/1 Return of cases Heard, Magistrate's Court, Campbell Town, AOT, trial of William Fogherty, 25 March 1835.

<sup>68</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of John Johnson, 12 January 1835, AOT. Johnson was charged and received 9 months in a road party for this act of insubordination.

<sup>69</sup> Tilly Charles, 'Contentious Repertoires in Great Britain, 1758 – 1834', *Social Science History*, 17:2 Summer 1993, pp. 254-280.

lives.<sup>70</sup> Additionally, Reid noticed changes in the behavior of female convicts that was not open rebellion, but a more subtle expression of personal rights.<sup>71</sup> Each of these historians was trying to document some of the minute ground shifts of social change enacted in the lives of the participants.

This said, alcohol played a substantial role in many of the charges brought against constables and affected the severity of the punishments they received. Although they were supervised closely in their barracks, some took other opportunities to get drunk when they were away from Campbell Town or Ross. William Fogerty was charged with riotous conduct at Gibson's inn at Epping Forest when he got drunk and threatened to shoot the groom.<sup>72</sup> While he was ganged for three months for this offence, most convict police were initially only reprimanded or fined. Only ten constables from Campbell Town were charged with being drunk and disorderly in 1835. This is an indication that drinking in pubs was reasonably tightly controlled in this police district and the police mostly stayed out of pubs in their leisure time, except for extraordinary occasions, such as when a fellow constable had been found guilty of a charge and sentenced to a road party.<sup>73</sup> Letter writers frequently complained about drunken convict police, but it was also a major issue in the ranks of the police in Britain too, where four out of five dismissals at this time were due to drinking offences.<sup>74</sup> Drinking seemed to be predominantly a working class issue, rather than a specific convict or police issue.

Some police made a habit of drinking in inns on the road while escorting prisoners when they were out of the immediate control of their officers. In the Spring of 1835 John Poole, a notorious absconder, escaped three times from local police custody while being escorted from Campbell Town to Launceston jail to stand trial, and

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<sup>70</sup> Kirsten Mckenzie, *Scandal in the Colonies*, pp. 4-5.

<sup>71</sup> Kirsty Reid, *Symposium: Eighteenth Century Britain in the Antipodes*, University of Tasmania, 8 April 2000.

<sup>72</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of William Fogerty, 1 September 1835. Fogerty was sentenced to 3 months hard labour in a gang.

<sup>73</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT. 12 January 1835 John Johnson fined for D&D when Collins sentenced to road party. 4 April 1835, Thomas Woodley fined for D&D when Isacc Bowater was convicted and sentenced to a road party. Thomas Moore and William Dixon also fined for D&D on 6 April after Clarke & Kirby were sentenced to road party.

<sup>74</sup> Haia Shpayer-Makov, 'The Making of a Police Labour Force', *Journal of Social History*, Vol 24, No.1, (1990), p. 115.



subsequently when taken back through the Campbell Town district to Port Arthur. Constables Moore and Edmonds first lost him at the Stagg Inn near Snake Banks where they stopped for the night as there was no lock up nearby. He bolted after they left him eating in the inn's kitchen. After he was recaptured, constables McManus and Collins were then given the duty of escorting him, but he escaped from McManus at the gates of the Launceston jail. Several days later after being recaptured and sentenced, Poole was again escorted back through the Campbell Town district by McManus and Newton. The three stopped once more at the Stagg Inn for the night, McManus went out drinking with a friend and left Newton in charge of five prisoners, including Poole, in a bedroom that had no lock on the door. Poole and one other prisoner escaped from the room after Newton went out to fetch firewood some time after midnight.<sup>75</sup>

Was Poole simply a clever and determined absconder or were the police negligent in their duty or worse still, had any of them taken a bribe from Poole and allowed him to escape? It certainly appeared that there was a considerable degree of negligence from all the constables at various times, but Eastwood and Collins had recaptured Poole after two of the escapes, so they were not charged. Newton's explanation of the third escape left a number of unanswered questions about his role, but he had an unblemished police record. As a result although he was charged with allowing prisoners to escape, his version of the escape was believed and the charge against him was dismissed. Conversely Moore and McManus had shown increasing unreliability that year, McManus had been charged on several occasions with drinking and Moore had been disciplined for drinking and being insubordinate to his superiors. Moore was fined forty shillings for leaving Poole unguarded in the kitchen of the Stagg inn, and McManus was sentenced to three months in a road party with hard labour.

Police drunkenness was not always the cause of prisoners escaping from custody. Police constables sometimes displayed compassion to their prisoners' conditions,

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<sup>75</sup> LC 83/1, *Return of Cases Heard, Magistrates Court*, Campbell Town, AOT. Trials of Henry Newton, Thomas Moore and Terence McManus, 29 September 1835. Moore was dismissed two months later when he allowed two prisoners to escape at Spring Hill, while he was walking them with their handcuffs off.

which contributed to some escapes. Constable Hewlett was dismissed and sentenced to a road party for six months for allowing two prisoners to travel without handcuffs thus enabling them to escape near Fleming's pub at Tunbridge Wells.<sup>76</sup> Some police allowed prisoners in the town lock up the luxury of a visit to the local pub. The decision to allow a prisoner a last drink before he was sentenced or conveyed to a place of punishment could be costly. One constable lost his ticket of leave for six months when he took a prisoner, under escort for a capital charge, to Dickenson's pub in Ross for a few drinks one Saturday night. The watch house keeper who accompanied them was dismissed from his post and sentenced to twelve months in a chain gang.<sup>77</sup> The previous watch house keeper had been dismissed earlier in the year for a similar offence.<sup>78</sup>

Very few serious criminal charges were brought against the Campbell Town constables in 1835 despite middle class fears of police corruption. Although ten criminal cases were brought before a court, one was dismissed for lack of evidence, and three returned not guilty verdicts. Three of the remaining charges resulted in convictions, but the constables had been drunk when committing these offences, hardly an extenuating circumstance, but certainly one that explains their lack of judgment. The most prominent local conviction was recorded against constable William Drinkwater who was found guilty of attempting to pervert the course of justice by conspiring to use false evidence to convict a local emancipist farm worker for the murder of Captain William Serjeantson a local justice of the peace. Drinkwater had enlisted the aid of constable Reardon to place pistol shot in the farm worker's hut and claim it was the same shot that killed Serjeantson. The plan was foiled when Reardon told his commanding officer about it. Drinkwater was tried and sentenced to Port Arthur for two years.<sup>79</sup> Reardon claimed that Drinkwater had

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<sup>76</sup> LC 83/1, *Return of Cases Heard, Magistrates Court*, Campbell Town, Trial of James Hewlett, per *Royal George*, 23 November 1835, AOT

<sup>77</sup> LC 83/1, *Return of Cases Heard, Magistrates Court*, Campbell Town, Trials of Richard Ellis and Robert Inglebert, per *Enchantress* and *Lady East*, 30 September 1835, AOT

<sup>78</sup> LC 83/1, *Return of Cases Heard, Magistrates Court*, Campbell Town, Trial of William Dixon, per *Red Rover*, 14 January 1835, AOT

<sup>79</sup> CSO 3/866 and 18333, AOT. Six months later, a local bushranger who was gravely ill, was given up by the couple who had sheltered him. He confessed to killing Serjeantson, but died shortly afterwards before going to trial.

devised the plot to win an early release, as his wife was on her way to the colony and Drinkwater wanted to be free to join her.

The other less public trial was of constable Michael Beard who was found guilty by the Court of Quarter Sessions of taking a man to the watch house, imprisoning him illegally, and releasing him after extorting a bribe of money and spirits.<sup>80</sup> The man and his companions complained to the officer in charge and Beard was charged. Both these cases show that the local senior officers were able to command the system and expose these attempts to disadvantage innocent men.

Three other cases of either assault or attempted extortion involving drunken policemen were heard in the local magistrate's court in 1835. Two of the constables charged were dismissed and the other three received either three or six months in a road party. The severity of the sentences should have reassured respectable local people that they could complain about these incidents and ensure charges were laid against corrupt police.

Even officers faced disciplinary procedures and in 1835, District Constable Freestun, in charge of the Ross police office, was charged with embezzling five window frames.<sup>81</sup> Freestun's tough and successful stand against local emancipist tradesmen and settlers involved in trading stolen building supplies had created many enemies for him in the local area.<sup>82</sup> Benjamin Horne, a local justice of the peace from Ross, charged Freestun with the offence but he was acquitted by the Court of Quarter Sessions and left the island to join the police in the Port Phillip District.

Although these cases of assault, false arrest, bribery, embezzlement and attempting to pervert the course of justice demonstrate that some of the Campbell Town police

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<sup>80</sup> LC 83/1, *Return of Cases Heard, Magistrates Court*, Campbell Town, AOT. Trial of Michael John Beard, per *Circassian*, 8 July 1835 and CON 31, AOT, Conduct Record of Michael John Beard, police number 1834, per ship *Circassian*,.

<sup>81</sup> *Hobart Town Gazette*, Police Notices: The following three free arrivals were dismissed from senior police positions in 1835. Mr Richard Ninian in March, p. 220; James Trotter in March, p. 220; and Mr Augustus Walsh from Launceston in June, p. 475.

<sup>82</sup> David Freestun, 'The Brothers Freestun Why were we Policemen?', *Tasmanian Ancestry*, March 1997, pp.230 – 232.

were corrupt, they also indicate a willingness to prosecute. People from all levels of local society were prepared to bring charges against the police including emancipists, free men falsely arrested, publicans, justices of the peace, and settlers. Generally the police magistrate, John Whitefoord, heard cases against police with care. He required evidence that would convince him of guilt but did not hesitate to prosecute where this was forthcoming. Out of fifty charges brought against his police for the year, he dismissed four charges and imposed fines, demotions or reprimands on a further twenty seven cases. He also regarded the constables' conduct records as a good indication of their reliability. On the third proven charge he generally imposed a sentence to a road party, sometimes including a dismissal from the force.

Whitefoord was also notable for never sentencing one of his police to a flogging. This was a rare punishment for police, but other Campbell Town police magistrates, Leake and Horne, while acting in the position, and Frederick Forth who arrived later, all resorted to this punishment for a few of their police constables. While Whitefoord attempted to achieve some degree of control over the drinking habits of his working class constables by imposing severe sentences, he was unable to completely prohibit drinking. Part of the problem was that the constables were waged and therefore had the means to drink.

Convict police tended to receive more work related punishments than assigned men. They were more likely to be sentenced to several months in a road party than assigned men, as the stricter military discipline under which they worked resulted in more charges being laid against them. Their conduct records often had more entries than those of assigned men. Many of these entries were for breaking police orders that were quite minor; not attending church, failing to attend morning muster, refusing duties and many drinking charges. Charges of disobeying police orders were also rife and punished in the new British police forces, which were established after 1828. The difference was that these charges were not criminalized in Britain, and while British police could be fined or dismissed for poor work, they could not be

punished by flogging or sent to road parties or be forced into hard labour in chain gangs.<sup>83</sup>

The Campbell Town convict police were a microcosm of the larger cohort of working class men sent to Van Diemen's Land as convicts. They tended to be taller, be amongst the more literate and have trade skills that were directly useful in rural districts. Their major differences from the general group of male convicts were that far more of them had life sentences and fewer of them were Irish. The strict discipline to which they were subjected meant that it was more likely that they would be to charged and sentenced to road parties, than an assigned convict. They were scrutinized, detested by some and feared. Despite this there were some settlers who recognized that policing was necessary in a convict colony and on reflection that many police magistrates exerted tight control over the convict police. Even though instances of drunkenness, and corruption did occur, settlers of all classes could complain and expect action and restitution. While few may have fully shared Arthur's appraisal of the police as being "the best character, active, intelligent" of the convicts who were landed, some indeed were.<sup>84</sup> However, at least one settler on the Macquarie River was prepared to defend the local police in a letter to the editor of the *Launceston Advertiser*. *Vindex* argued that the problems found amongst convict police in Van Diemen's Land were not unique to the colony and that similar problems existed amongst the free police in Britain. He believed that "in the main, the police system works well."<sup>85</sup>

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<sup>83</sup> Haia Shpayer-Makov, 'The Making of a Police Labour Force', pp 109 – 134, for a discussion of drinking and discipline issues in the British police forces of the period.

<sup>84</sup> Great Britain, Parliament, House of Commons, Select Committee on Transportation, *Report from the Select Committee of the House of Commons on Transportation*, Sir William Molesworth, chairman of the committee, Adelaide, Libraries Board of South Australia, 1967, Vol. 1, p. 302.

<sup>85</sup> *Launceston Advertiser*, Letter by *Vindex*, 22 December 1835, p. 3. 'Vindex's' conclusions about the early British police are also shared by David Taylor, *New Police in nineteenth-century England, passim*. Almost all of the problems Taylor identified with policing in Britain are mirrored in the convict police of the 1830s and 1840s in Van Diemen's Land.

#### **Chapter 4: More arduous than being a soldier? Convict police — their work, leadership and the stresses of the job.**

This chapter will use the Campbell Town bench book to explore the realities of police work in the mid 1830s. While previous historians have catalogued many incidents of common police corruption, mostly compiled from newspaper reports, there is a danger that the emphasis of the existing literature will leave the impression that the force was ineffective. As Sturma points out, there is a second danger too. Police corruption has historically been a long run phenomenon and is certainly not limited to the era of convict policing.<sup>1</sup>

This chapter will attempt to rectify the deficiency in the current literature by employing the magistrates' bench records to explore the day to day realities of convict policing in the 1830s, as the duties of the police magistrate and his staff expanded during the period of Arthur's administration. The court records provide a means of exploring the ways convict constables reacted to issues of loyalty, the power and class struggles with local magistrates and abuses from other convicts and emancipists. This chapter will approach the convict constables as people caught for a moment in the public gaze, and demonstrate why the job of policing a district was seen by some of their contemporaries as a more arduous job than soldiering.<sup>2</sup>

While the variety of police work had increased by the mid 1830s, putting pressure on both superior officers and constables, the quality of active policing was still in its infancy. Although Arthur argued their role was "detecting" as well as control, there were few examples of successful detecting in the 1835 bench book.<sup>3</sup> Such work was often left to the senior officers if it was done at all. John Lyall was the acting chief district constable when Henry Emmett, a local storekeeper, called him in to investigate a suspected theft at his store. It must have surprised Lyall considerably to discover that Emmett had almost completed the entire investigation before he

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<sup>1</sup> Sturma, *Vice in a Vicious Society*, op cit., pp. 4 -6.

<sup>2</sup> Haia Shpayer-Makov, *The Making of a Police Labour Force*, p. 126.

<sup>3</sup> John West, *The History of Tasmania*, first published 1852, (Ed. A.G.L.Shaw), Sydney, Angus & Robertson in association with the Royal Australian Historical Society, 1971, p. 436.

arrived. Indeed Emmett later used the court as a stage to play out his powers of deduction almost as if suggest that the local police and their commanding officer were far less capable than he in resolving cunning thefts. Emmett delivered a masterly summary of his efforts to the court, which contained more than a hint of irony. He charged two of his assigned shop men with stealing 26 gallons of porter, 13 gallons of Cape wine and 4 gallons of rum over a period of several weeks. The quantity was too large for two men to consume without Emmett noticing they were frequently drunk, so it was probable they had stolen the liquor to resell it illegally around the village.

When he discovered his loss, Emmett removed the assigned servant, who had been ordered to sleep in the storeroom to protect the goods, and had another convict securely nail up the loft floor above the shop. He returned secretly, late on the Saturday night, and placed some goods on top of the liquor casks. On Monday morning he found the goods had been moved. In addition, he explained to the court, “I felt assured the premises had been entered and proceeded to examine the boards (of the loft floor)...I immediately perceived one of the boards to be split, by which means it was moveable at one end, and by moving it found a considerable opening was made to the cow house below”.

Certain that he knew who the thieves were, Emmett sent for chief constable Lyall, who arrived and searched the servants’ rooms, where he found several bottles of spirits. Although this appeared to be proof enough of their guilt, Emmett told the court that he continued to gather evidence. “I afterwards examined some of the spirit casks, in particular a cask of rum, which had been deposited with the store on Saturday last only and found that something more than two gallons had been taken out of it. From a cask of brandy I also found something more than one gallon had been taken. I have compared the rum in the bottle produced by Mr Lyall with a sample of that taken by me from a cask in the store, and I have no doubt it is the same rum. I have not yet compared the brandy”.<sup>4</sup>

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<sup>4</sup> LC 83/1, Return of Cases Heard, Magistrates Court, Campbell Town, AOT, Trial of William Watkins & Richard Taylor, 19 August 1835.

Emmett had suspected a long standing and continuing robbery, taken steps to prevent any further thefts, collected evidence of the break in, questioned the suspects, noted their responses, and finally called in the chief district constable.<sup>5</sup> Emmett's investigation was more detailed than any police investigation that was recorded in the magistrate's bench book for 1835 and implied that the concept of logical investigation was possible in 1835, but more likely to be undertaken by the victim of a criminal act rather than the police or their officers. The truth was that in a rural police office the general round of duties left little time for sleuthing despite the governor's assertion that detecting crimes was one of the main duties of his police.

Rural police magistrates gained more responsibilities as their office began to function as the key local bureaucracy responsible for a range of duties that later would fall under the jurisdiction of local government. Convict control remained a substantial part of the duty of constables, particularly the newly recruited. They performed escort duties, attended to fines, dealt with disorderly persons, and enforced the growing numbers of regulations about hawkers, carriers, bakers, coaches and permits for selling wine and spirits.<sup>6</sup> But the convict police were the magistrates' deployable staff and had to gradually extend their duties from these tasks to many additional functions. The increase in their duties sometimes perplexed their critics, who thought that the primary function of the police was to exercise control over the district's convict work force and not to interfere with the likes of free settlers.

By the mid to late 1830s, police magistrates were responsible for supervising the work of district surgeons, rural postmasters and their paid convict post messengers, local coroners and inspectors of stock. They also made recommendations to these appointments thereby exercising a degree of local patronage.<sup>7</sup> They enforced the licensing laws and prosecuted local publicans for harboring and serving convicts.

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<sup>5</sup> Henry Emmett's performance in court may have been honed by his reputation as a former justice of the peace and registrar of the Court of Requests in Hobart before being dismissed for embezzling court funds. Constantly short of money to keep his large family, he applied afterwards for many government positions but was always blocked by Governor Arthur. He may have hoped to be considered either for the chief constable's or police magistrate's position in Campbell Town; both were to be decided later that year. See *Australian Dictionary of Biography*, Vol.1, p. 356.

<sup>6</sup> Great Britain, Parliament, House of Commons, Select Committee on Transportation, *Report from the Select Committee of the House of Commons on Transportation*, Sir William Molesworth, chairman of the committee, Adelaide, Libraries Board of South Australia, 1967, Vol. 1, pp.328-329.

<sup>7</sup> POL 39/1, Correspondence of C M Forth for Campbell Town, 1838&9, AOT.



They established pounds and deployed constables to run these, an unpopular duty, as farmers resented paying fines for stock that had strayed and hated the Slaughtering Act which forced them to pay for inspectors who verified the ownership of all stock slaughtered for meat. The magistrates oversaw the local Courts of Request that settled small debts thus creating security in everyday commercial transactions. The magistrate's office sometimes dealt with welfare issues concerning women and children. Frederick Forth, police magistrate in 1836, for example, received a letter from his district constable at Ross asking what could be done to help a married free woman who had been turned out of doors with a black eye by her husband who had been drunk for a week.<sup>8</sup> The magistrate's office also acted as a labour exchange responding to desperate settlers seeking convict labour for the grain harvest.<sup>9</sup> The office provided information about the availability of ticket of leave men, taken from the monthly musters, and sometimes public works convicts could be temporarily deployed to assist settlers to get their crops in.

In addition, some police magistrates could be expected to supervise and assist extensive public works projects in their areas. Throughout the early 1830s the various police magistrates in the Campbell Town district supervised the expansion and repair of police buildings in the government compounds and at remote police outposts.<sup>10</sup> Superintendents of road parties in the district were supported by local police who helped move convict gangs and equipment to new sites, and new levels of co-operation were initiated between the Roads and Bridges Department in Hobart and local police magistrates, including the use of shared offices for police and road project superintendents.<sup>11</sup> In 1836, police magistrate Forth, a former military

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<sup>8</sup> POL 35, Campbell Town, Miscellaneous documents from the police magistrates letters/papers collection, AOT. Letter dated 7 January 1840 from district constable Edward Williams to police magistrate Frederick Forth, concerning William Crow and his wife. The Ross district constable was acting in a welfare role, a role formerly adopted by local gentry-magistrates in Britain. Another letter from William Wood, magistrate at Snake Banks, explained the advice he had given a female convict, who had been returned to the Crown, but whose child had been kept by the woman's former employer, without her consent.

<sup>9</sup> *Ibid*, POL 35, AOT. 24 January 1840, William Wood, (local magistrate) Hawksridge farm, to police magistrate asking for men to help him get his oats crop in. 24 January 1840, R. Wales to police magistrate wanting 30 men to do the reaping. 11 January 1840, W. Whitchurch, Belle Vue farm, requesting more assigned men urgently.

<sup>10</sup> PWD 266/1714, 1715, 1716, AOT. Elevations and plans for the police office at Snake Banks, showing the rudimentary type of split log huts built as rural government offices in the 1830s.

<sup>11</sup> POL 35, Campbell Town, *Miscellaneous papers*, AOT. Letter from Alexander Cheyne to Frederick Forth, police magistrate, 3 July 1839. Roads office at Snake Banks was ready to accommodate a

engineer, also acted as superintendent of the public works gangs that built the Red Bridge in Campbell Town.<sup>12</sup>

To cap things off, the role of keeping track of convicts also became more complex as increasing numbers of forms were required by the Chief Magistrate's Office and larger numbers of assigned and ticket of leave convicts came to work in the district. Annual convict musters, monthly ticket of leave musters, abstracts of local absconders, weekly abstracts of cases heard, depositions for particular cases, police characters (references for convicts), travel passes, financial accounts and pay abstracts were just a few of the dozens of documents that were produced or submitted to Hobart from the police magistrates' offices.<sup>13</sup> Preventative policing also started to gain momentum by the late 1830s and some thorough police campaigns were mounted in the Campbell Town district. For example, an extensive sweep through bush land was conducted by police, to burn temporary huts where absconders could shelter.<sup>14</sup> On another occasion, over forty men, including police, participated in a search for a bushranger, a costly exercise that ran over many days.<sup>15</sup>

In an era of mounting demands the high turnover of convict police and their officers, who rarely stayed for more than three years in a rural police office, presented considerable problems. While officers had high expectations of the constables' performance of their duties, there were no plans to train them beyond the imposition of a rigid system of military-style discipline.<sup>16</sup> The arduous demands of these duties were described by James Mortlock, who served as a rookie constable for several weeks before persuading the police magistrate to transfer him to the less strenuous position of watch house keeper. As Mortlock described it:

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mounted police man. Many other minor bureaucratic communications from Cheyne to Forth in this file.

<sup>12</sup> POL 39/1, *Police Magistrates letter book*, ATO, 8 August 1836 and following. Letters concerning the setting up of public works gangs for specific tasks.

<sup>13</sup> POL 39/1, *Police magistrates letter book*, AOT.

<sup>14</sup> POL 35, Campbell Town, *Miscellaneous documents*, AOT.

<sup>15</sup> *Ibid*, See Abstract of costs of mounting the search and the names of the 40 participants.

<sup>16</sup> David Taylor, *The new police in nineteenth-century England: crime, conflict, and control*, Manchester, Manchester University Press, 1997, p. 51. Training was equally undeveloped in the London Metropolitan Police at this time. New recruits were 'trained' by being sent out 'on the beat' with more experienced constables.

A petty constable being supposed continuously to patrol an appointed beat, from eight o'clock in the evening until six next morning, anyone thinly clad found the duty very severe, especially in a strange place, during a dark, wet, cold night, the latter part of which he passed in a state of shivering, hungry drowsiness, quite incompatible with effectiveness. The hours of darkness should always be divided into at least two watches. Those few weeks were extremely harassing; I cannot remember that any period ever inflicted so painful a trial upon my fortitude...<sup>17</sup>

The absence of active policing in preventing petty crime was seen by some contemporary critics and later historians as evidence of a widespread corruption. While this was likely in some cases, the lack of preventative policing can also be interpreted as a lack of active leadership by local superior officers as well as a failure to develop policing procedures that actively investigated local crime. At this time, however, neither the new British police services nor the colonial forces had reached a stage of development, when leadership or policy goals could be clearly defined and implemented across the force.<sup>18</sup>

In Campbell Town, a heavy turnover of senior staff occurred between 1832 and 1836. The men who acted as police magistrate during those years were local farmers, with business responsibilities, and each seemed to attract a level of local support from different factions. Simpson and Leake appeared to be remembered fondly by local emancipists as fair men. On the other hand, some of justices of the peace criticized Leake for preferring the testimony of convicts to the word of a gentleman. Leake's replacement, John Whitefoord, was a farmer from Oatlands, who sustained strong criticism in local papers from the emancipist and small trader factions, but was later appointed by Arthur to the permanent position of police magistrate at Oatlands.

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<sup>17</sup> Mortlock J.F., *Experiences of a Convict*, first published 1851, (eds) G. A. Wilkes & A.G. Mitchell, Sydney, 1965, p. 90–91.

<sup>18</sup> David Taylor, *The new police in nineteenth-century England: crime, conflict, and control*, Manchester, Manchester University Press, 1997, pp. 7, 89. Taylor argued that it took until well after the 1860 police reforms for the force to develop and refine training and strategies for dealing with general crime. See also Stefan Petrow, 'Police Organization in nineteenth-Century Tasmania', *Tasmanian Ancestry*, March 1997, pp. 223–29. Petrow traces similar attempts to refine the efficiency of policing as the century progressed.

Captain Frederick Forth, a military engineer, followed him to build the Red Bridge at Campbell Town and impose firm order. Forth had served on Governor Arthur's staff and was a professional colonial public servant who arrived from a position in the West Indies. Forth managed the bridge project well, but was dismissed by Governor Franklin in 1839 for failing to adequately supervise the collection of quit rents in his office. His free clerk, George Emmett, was at first charged with embezzling the funds but the charges were dropped when it was discovered the money was not missing but merely mislaid.<sup>19</sup> There was a strong suspicion that as well as putting up a bond for the young Emmett, his friends may have also provided him with sufficient funds to remedy the deficit and clear his name. His father and brother had been similarly charged and escaped prosecution while serving in other government positions.<sup>20</sup>

The quality and commitment of the local chief district constables in the mid 1830s was questionable too. There was little incentive for them to stay very long in the job. Despite having the responsibility for the overall management of the local police force, their small salary of £75 *per annum* was generally supplemented by holding other official part-time positions such as the summoning officer for the Court of Requests with remuneration of £50, pound keeper or Inspector of Stock.<sup>21</sup> Some, like Francis Small only stayed ten months in the job before obtaining the better paid position of Superintendent of Convict Writers in Hobart in February 1835.<sup>22</sup>

Particular duties were unpopular with some convict constables. After the comforts and camaraderie of the police barracks at Campbell Town or Ross, the isolation and loneliness of a month's duty reporting to James Sutherland, the local magistrate on the Isis River was quite unwelcome. Sutherland imposed strict control on the rostered constable who had to report to him daily and whose off duty hours were spent alone at the police hut situated on a neighboring farm. An incident in 1835 demonstrated how severely Sutherland dealt with any perceived breach of duty. Sutherland

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<sup>19</sup> Mackaness George (ed), *The Franklin Correspondence – Part 1*, Dubbo, 1977. Letter to Lady Franklin dated 9 May 1839, pp. 77-78; and *Correspondence Files*, H. J. Emmett, 165/234 and 1970/259, AOT.

<sup>20</sup> *Australian Dictionary of Biography*, Vol.1, p. 356-357.

<sup>21</sup> Ross, *Almanack 1835*, pp.16, 27.

<sup>22</sup> CSO 50/10/1835, AOT.

explained to the police magistrate how he was “called out of bed, by one of my servants, tapping very gently at my window, and telling me, that the constable was at that moment, harboured in (Joseph) Albany's bedroom.” Sutherland left the house immediately and accompanied by his servant, William German, went out to the kitchen door and confirmed that German’s information was correct.

William German had a busy evening. When constable Thomas Kirby arrived for the start of his month at the Isis, he first delivered the mail to Sutherland’s where German had overheard the cook, Albany, arrange to meet Kirby later that evening. German went back several times to check the kitchen and cook’s room to see what was happening and eventually around eleven o’clock, he heard somebody talking in Albany's bedroom. He went through the kitchen and surprised the two men demanding to know: “What games do you call this. This I said in consequence of seeing meat and potatoes. Kirby asked me to have some supper. I refused and went and told the men, in the hut and they advised me to tell my master.”

After informing Sutherland, German was keen to ensure that Kirby didn’t leave before Sutherland found him, “so I returned and held the kitchen door. Kirby said Open the door—open the door. But I would not do so till my master came.” Sutherland was not convinced by Kirby’s explanation that he had lost the key to his handcuffs and had returned from the police hut to try and find it, as he could have searched for it the next morning when he reported for duty. Sutherland was scandalized that it was late at night and that “Albany was entertaining Kirby with supper.”<sup>23</sup>

Convict constables had to be careful. There was always someone, either a settler or a fellow convict, who hated or mistrusted them and would try to expose them to punishment. Police were caught between the two groups and in many respects could trust no-one. From the court records it’s not possible to deduce whether German was trying to pay back either the cook or the constable, or even if he was one of those convict servants who had aligned himself with his master’s interests and dobbed in

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<sup>23</sup> LC 83/1, *Return of Cases Heard, Magistrates Court ,Campbell Town*, AOT. Trials of Thomas Kirby per *Lotus*- police number 387 and Joseph Albany per *Thames* –police number 332, 4 April 1835, AOT

fellow servants for his own gain. Kirby clearly knew he was not supposed to fraternize with Sutherland's assigned servants, when he tried to buy off German by inviting him to join them at supper. Whatever social contacts constables made with the general convict class was likely to be viewed with suspicion by their officers as it could potentially compromise their loyalty.<sup>24</sup> The court records also don't include enough information to judge whether or not the magistrate suspected the friendship between Kirby and Albany was more intimate than a simple social call, or more criminal, and that the two were involved with theft or fencing goods. Certainly the sentences given to both men suggest they were being punished for more than having supper together. Albany was sentenced to thirty five lashes and returned to the Crown for reassignment and Kirby was suspended and spent six months in a road party before resuming his police duties in Campbell Town. This harsh regime of isolation from both the barracks and companionship throws some light on why another constable later in the year begged the chief constable to relieve him of his duty at Sutherland's.<sup>25</sup>

There were other cases where convict servants tried to manipulate their master's lack of trust of convict constables in the hope of gaining an advantage. John Smith, a former baker, was employed as a convict javelin man (guard) at the Campbell Town jail. One morning after the church muster he came across John Maker outside the Blue Anchor inn. Maker had worked for Henry Jellicoe, a local magistrate, for nine months and confided to Smith that he wanted to leave Jellicoe's employment and get another master. Smith told him that the way to do it was to pretend to abscond and that Smith could come and pick him up at a pre-arranged spot. That way they could share the £2 reward that Smith would get for Maker's recapture and Maker would be returned to the Crown for reassignment. The plan was enacted, however, Maker was sentenced to Notman's road gang instead of being returned for reassignment as he had expected. A further unpleasant surprise was that Smith could not give him the

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<sup>24</sup> David Taylor, *The new police in nineteenth-century England: crime, conflict, and control*, Manchester, Manchester University Press, 1997, pp. 53, 58. This separation of police from their working class entertainments and companions was not exclusively a problem experienced only by the convict police. Constables in the new Metropolitan Police in London were prevented, on pain of dismissal, from engaging in many working class leisure activities such as attending fairs or boxing matches, gambling or drinking. Rigid respectability was enforced.

<sup>25</sup> LC 83/1, *Return of Cases Heard, Magistrates Court, Campbell Town*, AOT, Trial of Thomas Moore, 5 June 1835.

ten shillings he promised until he got his quarterly pay, but instead gave Maker tea and sugar to take with him to the gang. Six months later, Maker was released and assigned to another magistrate, John Leake, at which point he pressed his claim for the ten shillings he was owed.

Maker not only wanted to get his own back on Smith, whom he believed had failed to honor their agreement, but felt he could use his new master to do so. He told the whole story to Leake, including his recent attempts to collect the money owed to him. He confided that “about six weeks ago I was in Campbell Town and I asked him (Smith) for money on account of the absconding. He gave me half a crown. This was at the back of the police office.” Maker told Leake he couldn’t provide a witness to this conversation but when he asked Smith if that was all he was going to give him, Smith replied “Yes, and if I was not contented he would give me in charge if I asked for any more”.

Although Leake claimed he was initially dubious of Maker’s motives, he was convinced when Maker explained that he didn’t tell Leake, “in order that the javelin man might be prosecuted”, but that, “he thought it was a scandalous thing when he had bolted that the man should only pay him half a crown and then threatened that if he troubled him for anything further he would take him into custody”. Apparently Maker’s sense of outrage moved Leake to take action.

Leake advised Maker to make several applications in writing to Smith for the 7/6d that he owed him but Smith again refused to pay up, telling the man who presented the order that he didn’t know Maker. Leake sent Maker back to Smith, with the groom accompanying him to act as a witness to their conversation, but again Smith declined to pay up. However, Smith was becoming suspicious of Maker’s persistence and asked him how he came to serve the order in that way and kept the note. The groom, when questioned later in court, was quite unhelpful to either party in the matter, saying he had only seen the note passed to Smith but hadn’t heard what they spoke about.

Meanwhile Maker claimed he had met Smith later, while he was droving some sheep into the village and arranged to meet him near the jail where he “gave me about a quarter of a pound of tea and about two lbs of sugar.” By all accounts, either Smith felt he had paid off Maker sufficiently with a half crown and two lots of sugar and

tea, which apparently he had taken from the jail's supplies, or the tale was a fabrication.<sup>26</sup> The police magistrate dismissed the case for lack of evidence thus avoiding antagonizing Leake, one of his local magistrates, while at the same time putting his convict constable—Smith on notice. Making something on the side out of police work, if that was what Smith had actually tried to do, was a lot more difficult than the critics of the police anticipated. Any disgruntled convict with an axe to grind could complain against them and at least get a hearing, apparently without much risk to themselves even if they implicated themselves in an illegal transaction.

In any case, additional income from rewards for apprehending absconders or drunks was actually quite modest if other rural districts were similar to Campbell Town. The local courts processed around 110 men for being drunk that year, which raised around £28 from the 5/- fines.<sup>27</sup> In addition, constables apprehended around 36 absconders, so around £72 could be distributed from the £2 rewards. Twenty one constables claimed rewards, but most only apprehended one or two absconders during the year. Three constables seemed more successful than most, although by October senior officers were beginning to wonder if some constables were deliberately losing prisoners they were escorting in order to try and claim a reward for recapturing them. Constables Holden and Moore each captured four absconders, but Moore was eventually fined for letting prisoners escape. William Bowtell held the district record for capturing five absconders.<sup>28</sup> However, most of the Campbell Town constables would have been lucky to earn an additional £2 - £3 from rewards and fines in 1835.

Yet even if it was difficult to make extra money out of police work, some police had information to exchange that they could use to their advantage. Stock theft was rife in the district according to settlers, but few convicts or emancipists were prosecuted for it. As chief constable Lyall found out, they operated at night and in out of the way places which made them too hard to catch in the act. Perhaps convict constables at

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<sup>26</sup> LC 83/1, *Return of Cases Heard, Magistrates Court, Campbell Town*, AOT, Trial of John Smith per *Larkins*, 9 July 1835, AOT

<sup>27</sup> LC 83/1, *Return of Cases Heard, Magistrate's Court, Campbell Town*, 1835, AOT.

<sup>28</sup> *Ibid.* Assigned servants also handed many absconders in and collected rewards. Generally, if a reward was to be claimed the bench book noted where the absconder was recaptured and by whom. However, a number of captures do not record who handed in the absconder.



Lake River or St Pauls Plains had suspicions or even firm information about some local characters, if they did, they rarely appeared to follow it up.

However, this information could be a very valuable commodity of exchange for a convict constable in trouble. Constable Richard Collins, a former basket maker from Woolwich, was only twenty four years old when he was sentenced to nine months with the Constitution Hill road party for inducing two assigned men to buy him drinks at the Blue Anchor Inn in Campbell Town. He had an excellent conduct record and this was the first misconduct recorded against his name in the six years since he had arrived in the colony.<sup>29</sup>

Collins only stayed four weeks with the gang before absconding. Four soldiers later testified they overheard him say “he would rather hang twenty men to save his punishment on a chain gang”, and although Collins denied using this phrase, it seems clear that his first experience with a road party created a very strong incentive for him to avoid returning to his punishment.<sup>30</sup> Collins remained at large for eight days at the end of February, during which time he made his way back to the Campbell Town district. There he gave himself up to Mr Davidson and Archibald McIntyre, the divisional constable, on Davidson’s farm at Salt Pan Plains.<sup>31</sup> He appeared before Magistrate Whitefoord and was initially arraigned to be returned to the Constitution Hill road gang for sentencing.

Collins spent ten days in the Campbell Town jail waiting to be returned to his gang, and during this time he and constable Thomas Griffiths devised a plan. Collins told the police magistrate that he had valuable information that could convict sheep stealers at St Pauls Plains on the property of the magistrate, Major William Gray. Eager to improve the local conviction rate, Whitefoord ordered Collins to work with Griffiths at the Avoca police office rather than returning him to Constitution Hill.

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<sup>29</sup> Con 31, Richard Collins, 931, *Georgiana 1*, AOT. LC 83/1, *Return of Cases Heard, Magistrates Court*, Campbell Town, Trial of Richard Collins, 12 January 1835.

<sup>30</sup> *Colonial Times*, 24 November 1835, p.347.

<sup>31</sup> LC 83/1, *Return of Cases Heard, Magistrates Court*, Campbell Town, AOT, Trial of Richard Collins, 14 March 1835.

A fortnight later, the two constables staked out the hut used by a couple of ticket-of-leave convicts named Macpherson and Spicer who worked for Gray. Griffiths told the magistrate that early in the morning they saw “James Macpherson and another person killing a sheep which proved to be the property of Major Gray”. As they moved in to arrest them, one escaped, but Macpherson was secured. They picked up a third man, James Spicer, in the hut. Several days later, they apprehended William Duncan whom they strongly believed “to have been the person who was with Macpherson on the night in question.” As Griffiths put it: “He answers to the description of Macpherson's companion in all respects. I can't venture to swear to him—having had no knowledge of the prisoner before, and the night being dark”.

Collins could do little better. Although he believed Duncan to be the culprit, he confessed that: “I can't swear to him.” He reported, however, that he had seen Duncan at Avoca, the night before the offence took place and had seen him several times at Macpherson's hut. Griffiths further damned Duncan by claiming that, “the prisoner has told me he is night shepherd to a person named Smith who bears a very indifferent character. He left the neighborhood of Avoca directly the subject of sheep stealing was made public”. Duncan countered these claims by providing an alibi of sorts for the night. According to his testimony he had stayed with Robert James and Paddy Sullivan at Avoca “from dark at night to sunrise” and volunteered that Sullivan at least had been sober.

Given the fragility of the evidence, Police magistrate Whitefoord acted with caution. All three men had their tickets of leave suspended. Duncan was given some benefit of the doubt. He was sent to the town surveyor's gang in Launceston, one of the lighter punishment stations. The charge against Spicer was dismissed as he had not been caught with the sheep. Nevertheless, he was relocated to a road party for twelve months.

Immediately, however, the case raised public suspicions. When McPherson was convicted as a sheep stealer at the Quarter Sessions, the *Colonial Times* informed its readers about Collin's recent sentence to the road gang and revealed that Griffiths had been tried four years earlier as a bushranger, along with a gang of seven or eight other men. Despite the severity of this offence, he had not only escaped a hanging

but had been made a constable.<sup>32</sup> Although the paper did not directly state it, readers would have inferred that Griffiths may have saved himself by giving up the information that hanged his companions. By comparison, the *Colonial Times* argued that McPherson's character was more trustworthy than either of the two constables, as Major Gray must have had a good opinion of him when he employed him as his shepherd. Both Collins and Griffiths remained in the local force, Collins being officially reinstated in July. It is the only recorded instance in the bench book of constables successfully catching suspected offenders while they were committing a felony.

The paradox of the convict constables lay in the need for them to be able to exert appropriate control over others, while displaying subservience to their officers and the magistrates in keeping with their lower class and their prisoner status.<sup>33</sup> It took considerable skill for constables to be constantly negotiating this dangerous ground as two of them discovered one evening on the Main Road, while shifting a convict public works gang to a new location. Constables Isaac Bowater and Richard Cloak had unhitched their bullock carts and set up their night camp at Snake Banks on Captain William Wood's land. Wood, the local magistrate, sent his son to enquire who they were. John Wood made his enquiries circumspectly, perhaps used to the growing assertiveness of convict workers. As he explained to the court, "I went down and asked them if they had leave to stay there and told them if they did not ask permission I could take the bullocks to pound. Cloak said in a very indifferent manner they should not leave till tomorrow morning and that I should not impound the bullocks. I left them and returned to my father and acquainted him with what had occurred". Not satisfied with this lack of respect and continuing refusal to seek his permission to camp, Captain Wood and his overseer rode down and told them to leave. Capt Wood met with the same assertiveness. When confronted with the demand, Cloak once more replied that he would not leave until the morning. As Captain Wood explained, "I then directed my sons to get their horses and take the bullocks to pound. One of my servants took one of the prisoner's horses. The

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<sup>32</sup> *Colonial Times*, November 25 1835, p. 374.

<sup>33</sup> David Taylor, *The new police in nineteenth-century England*, p. 90. This too was a difficult task for working class police in England, where control of others and initiative was expected, yet at the same time, complete obedience to officers was enforced.

prisoner Bowater said something to the servant, which I did not hear, it induced him to call me up. I desired Bowater to immediately tell me his name. He knew me to be a magistrate. I am a constable, constable Bowater. This he said in a contemptuous manner and turning upon his heel walked off saying to the overseer, "it is of no use saying any more".<sup>34</sup>

What makes this confrontation interesting is that it happened within earshot of the road gang. Bowater and Cloak knew they would lose credibility if they backed down and insisted on their right to camp there as they were on government business. Wood, however, was furious that his authority as a landowner, gentlemen and magistrate had been challenged by two serving convict constables. The confrontation provides a good illustration of the ambiguous role of the convict police and the tensions that would rise when they tried to assert the authority that had been vested in them. Local magistrates were aware of these tensions, but also seemingly unable to resolve them either. Peter Murdoch, captured this when he told the Molesworth Committee that "I think Colonel Arthur had got the police of the colony to a very high pitch of discipline, but still it was not less disagreeable to the feelings of us as independent magistrates."<sup>35</sup> Convict police lacked the moral authority to pursue their role fully and the class authority to subject the middle class to their orders.

Although there is some evidence, mostly reported in newspapers, that some police rough handled or beat suspects, they were also the victims of beatings which added greatly to the stress of their jobs.<sup>36</sup> The general level of violence and drinking amongst some working class men in Britain and the colonies may have been a contributing factor to this.<sup>37</sup> The physical brutality of the convict system may have exacerbated this further, by accustoming men to receiving and perpetrating violence. Some convict police were caught in this cycle of violence as they could be both

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<sup>34</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trials of Richard Cloak & Isaac Bowater, 4 April, 1835. Bowater was suspended for three months and sentenced to a road party for that period. Cloak was reprimanded.

<sup>35</sup> Great Britain, Parliament, House of Commons, Select Committee on Transportation, *Report from the Select Committee of the House of Commons on Transportation*, Sir William Molesworth, chairman of the committee, Adelaide, Libraries Board of South Australia, 1967, Vol. 1, p. 117.

<sup>36</sup> Petrow, *Policing in a Penal Colony*, p. 385.

<sup>37</sup> Bruce Hindmarsh, 'Beer and Fighting: Some Aspects of Male Convict Leisure in Rural Van Diemen's Land 1820-40', *Journal of Australian Studies*, 63, 1999, pp. 150- 205.

perpetrators of violence against other convicts and victims themselves. An examination of the conduct records of local constables showed that many of them had been flogged at least once during their career as police, while suspended and under punishment in road gangs.

As well as receiving institutionalized floggings the police were sometimes beaten quite severely by emancipists while they were performing their duties. During 1835 seventeen attacks on police were reported. Not many of the minor attacks were prosecuted and were probably a reflection of the general levels of violence in the community. In most cases the assailant was drunk. In January, Ellen West struck Constable MacManus when he found her running from constable West's hut while drunk after a probable domestic dispute.<sup>38</sup>

Another constable was later threatened with a knife when he tried to arrest an assigned carter on a farm. The man had arrived back very drunk with two other assigned men, after completing some deliveries with the farm cart. He refused to leave his hut and two other assigned servants had to help to disarm him. Despite this, his actions did not appear to pose a serious threat to the constable.<sup>39</sup>

Later that year, a drunken emancipist assaulted constables West and Johnson in the police office. West said in evidence:

Yesterday during the time the business of the office was going on, the prisoner came near the office door. He was very drunk. I told him to go away. He said; "B---gger you and Mr Whitefoord (police magistrate) too." I seized him by the collar and he struck me several times. With the assistance of Cons

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<sup>38</sup> Ellen West was an emancipist in 1835, who claimed to have previously arrived in NSW on the *Princess Royal*. She is listed as West's wife and the hut was likely to have been their home and situated in the Government compound. She had one further charge against her in 1835 for a drunk and disorderly offence. See LC81/1 for 6 February 1835, and 7 September 1835, Cases against Ellen or Elenor West.

<sup>39</sup> LC 83/1 Return of Cases Heard, *Magistrates Court*, Campbell Town, AOT, Trial of William Allard, 29 April 1835.

Johnson, whom he also assaulted, and others, we succeeded in lodging him in gaol.<sup>40</sup>

Other assaults offended public decency more. Two men who were drunk and fighting at the church service one Sunday morning had to be forcibly removed by two constables, who were assaulted in the process.<sup>41</sup> These assaults seem to be part of the general round of police work and one of the hazards of the job, often an illustration of the resentment with which convicts viewed police.

More severe assaults on police were the result of particular police investigations and prosecutions. Neighbors called police to intervene when Ellen Gregory, the stonemason's wife was being beaten by her husband's assigned assistant, Edward Evans. As Evans was being taken to the watch house by three constables, they were intercepted by Gregory and his employee Bradford. Constable Holden told the magistrate: "when Gregory came up he demanded that we should give up his servant. I explained to him that we had taken him up for beating his wife. I am sure it was Gregory that kicked me and broke my ribs. Bradford just struck me with his fist under the ear". Holden described the severity of the beating and explained when asked, "I was ill for a fortnight and two days from the effects of the treatment I received. I have not recovered from the bad usage I met with. I cannot walk without a stick".<sup>42</sup>

Sometimes, constables preferred to disregard minor incidents of disorderly behavior. Constable Patrick Flynn of Ross was passing the Robin Hood inn, the main drinking spot of convicts, when he was followed and taunted by an emancipist drinker. Ironically he ignored the man's behavior, but one of the important landowners riding

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<sup>40</sup> LC 83/1 Return of Cases Heard, *Magistrates Court*, Campbell Town, AOT, Trial of Joseph Debnam, 22 September 1835. Debnam had to find sureties for good behavior, and was fined five shillings for damaging an office tub.

<sup>41</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trials of Robert Seward, *Royal George* and Patrick Kearney, *K.S. Forbes*, 2 March 1835, AOT. Seward had his ticket of leave suspended for a month and went to a road party for this time, and Kearney was sentenced to 50 lashes.

<sup>42</sup> LC 83/1, Return of Cases head, *Magistrates Court*, Campbell Town, 1835, AOT. Trials of John Gregory on 26 May 1835, and Edward Evans and George Bradford on 11 May 1835, AOT. Gregory was an emancipist stonemason who employed both convict labour and emancipists. He was charged a number of times in 1835 with drinking and fighting.

by, commanded him to do something about the man's bad language. Flynn explained in evidence: "he (Love) struck me violently in the face with his clenched fist. I was taking him to the watch house when Sweet came out of Dickenson's Public House. He laid hold of me and said:" Let the man go." I said I will not leave hold him by the collar. He then struck me two or three times and kicked me violently". Neither Captain Horton, who had first complained, nor other bystanders gave Flynn assistance, but Horton did ride to the watch house and got police help. When they returned, Horton recorded that, "the two men had then got the constable down and were pegging away at him as hard as they could. The other constables came up and they were secured. The constable was very badly used and I think he would have been very badly treated indeed had I not been there".<sup>43</sup> Although a more considered opinion may have conceded that the incident would never have occurred, if Horton had not insisted that Flynn arrest Love in the first place.

Sundays and evenings were key times for assaults on constables and women, as they provided the leisure time for men to drink and fight. Police were also vulnerable on other holidays and around public houses at all times of the year. In particular, fighting was common if police tried to empty out public houses especially at Christmas time in Ross.<sup>44</sup> Most of the severe assaults on police happened in Ross, where the institutionalized flogging of gang members, appeared to escalate violence in the community, by former gang members who settled there.

Police were also likely to be injured when attending fights around the villages between drunken emancipists or ticket of leave men. Respectable people were likely to call police to intervene and this level of vigilance may have helped reduce the number of serious assaults, as only around fifteen resulted in court appearances. All assaults on police were likely to be reported by them though, if only to explain how uniforms became torn or injuries were received.

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<sup>43</sup> LC 83/1, Return of Cases head, *Magistrates Court*, Campbell Town, 1835, AOT. Trials of Alexander Love and John Sweet on 13 August 1835. Love and Sweet, both emancipists, were each fined 20/- for the assault and a further 5/- for damage to the constable's clothes.

<sup>44</sup> LC 83/1, Return of Cases head, *Magistrates Court*, Campbell Town, 1835, AOT. See the numerous cases for 26 December 1835.

Other stressful conditions affected the quality of the work of the convict police. Low pay made it difficult for convict police to afford to live honestly and the records of the local Court of Requests show that some had to borrow money from local lenders while waiting for their monthly pay. Campbell Town petty constables received between £ 28 - £32 per annum from 1828 to 1840 and rarely more than an additional £2-£3 from arresting drunks or apprehending absconders.<sup>45</sup> Few convict police were married, unlike the British Metropolitan police where 75% were married men.<sup>46</sup> Most Campbell Town police were unmarried and subjected to the stresses of barracks life, or were rostered to live in the police huts at remote locations. The three or four who were married appeared to have lived separately in huts or rented houses in the village. A handsome brick terrace of three houses, Gloucester House, was commenced in 1836 in Church Street, Campbell Town. This was an attempt to attract more married police and also a symbol of the middle class respectability that the police magistrate hoped to encourage amongst his constables.

The system of convict police never functioned as efficiently as Arthur boasted to his superiors in the Colonial Office. It was weak on detection and relatively inefficient on surveillance, even though the idea of police outposts commanding the rural roads seemed like a reasonable plan. New chums who absconded could be more easily stopped and apprehended on the roads than seasoned convicts who knew the ways of the colony, the back roads and the bush. For old lags there were many spaces in-between through which they could travel where police, soldiers and settlers rarely went. There were also many safe huts off the beaten track where they would be welcomed and sheltered.

And yet, the convict police created a semblance of control, especially in rural areas like the Campbell Town district, largely through the fear they inspired. They knew

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<sup>45</sup> CSO14, Blue Book, 1840, AOT. See also History Committee of the National Trust of Australia (Tasmania), Campbell Town Tasmania, *History and Centenary of Municipal Growth*, Sydney, 1966, pp. 158-159.

<sup>46</sup> Haia Shpayer-Makov, 'The Making of a Police Labour Force', p. 117 and Hazel King, 'Some Aspects of Police Administration in New South Wales, 1825-1851', *Royal Australian Historical Society*, Vol.42, Part 5, 1956, pp. 211-212, who noted that most in the Irish Constabulary were unmarried.



the local population well: they heard rumors about the assigned convicts and emancipists; convict informers knowingly or unwittingly assisted them; they were well linked into the gossipy networks of information that circulated in the convict world. But their reputation was mainly based on bluff. They were not encouraged to show initiative, were poorly trained and tightly disciplined. They functioned as an isolated social group, necessary to the community but never welcomed as part of it. The more respectable they tried to become, the more this pretension was rejected by emancipists and settlers alike, who would not accept their moral authority as convicts to enforce the law. Physically demanding and relatively poorly paid, their job was at least as arduous as a soldier's.

## **Chapter 5: The Outsiders: cash and safe huts—the trade with ganged absconders.**

By the mid—1830s one third of all serving convicts were employed on public works, either directly under privileged conditions, or incarcerated in gangs and penal stations. This chapter will focus on the widely practiced activity of absconding from road parties. Absconding was relatively easy and many men ran in order to spend some time away from their gangs, and a few, to attempt to evade recapture completely. The chapter will look at the general patterns of absconding across the island, including the ages of the men who absconded, how long they had been in the colony and whether they left and were captured singly or in groups. One of the main drivers of absconding was the ready availability of cash that circulated within road parties, and without which most would have been unable to pay for their periods of freedom outside the gang. It enabled them to purchase accommodation at safe huts throughout the island and buy food, liquor and the conviviality that was provided in the huts away from the rigid work schedules of the gangs.

The chapter will discuss the effects of absconding on the Campbell Town Police District through an analysis of the eighty or so cases of absconders who were recaptured within the district. Most absconders came from outside the Campbell town area and not all were quickly recaptured. Some cases reveal the strategies of the more successful absconders. An accurate network of information about the locations of safe huts, costs of accommodation and introductions to suppliers of goods and services circulated within the road parties. This chapter looks at how and where these services were supplied in the Campbell Town Police District and how the cash earned by convicts in gangs became redistributed throughout such remote rural districts. The chapter concludes by looking at how one such network was closed down by the police magistrate, and his public shaming of a number of large landowners who had failed to fully supervise the activities of their shepherds.

By the mid 1830s Governor Arthur's management model for male convicts had succeeded in establishing a stratified labour system across the colony. Both a private and government labour force existed. The government provided masters with assigned convicts who mostly worked as agricultural labourers. Masters were not

permitted to punish their convict workers but were required to charge them with an offence before the local magistrate. If a master found a convict worker repeatedly lazy or incompetent, he could return the prisoner to the government. Repeated appearances before a magistrate, on more serious charges such as fighting, threatening an employer or fellow workers or assaults, would result in short sentences of three to eighteen months in road parties, or more severely, in chain gangs working on the roads. A small number were ganged several times, before eventually receiving a sentence of a year or more to a penal settlement. By the mid 1830s all penal sentences were served at Port Arthur, as the stations at Maria Island and Macquarie Harbor had been closed. Within the ganged workforces in road parties and penal settlements, flogging was commonly used to compel compliance and increase work outputs. The management strategies of ganging and flogging were borrowed from the institutions of slavery and military service and were used to create fear and compliance amongst the majority of male convicts working for private masters and the government.<sup>1</sup>

Although some convicts and contemporaries compared convicts to slaves, technically they were not. Their labour had been appropriated and supplied, to either the private or public sector only for the term of their sentence. They retained their British citizenship while under sentence and their working conditions were highly regulated in regard to working hours, food rations, accommodation and clothing. Nevertheless, contemporaries and opponents of transportation, such as Henry Melville, editor of the *Colonial Times* newspaper, argued there were some similarities between the two labour systems.<sup>2</sup> His depiction of transportation as ‘white slavery’ was meant to draw attention to common abuses as such as flogging and ganging, punishments that were not commonly received by convicted felons in England. The slavery debate had been intense in Britain and her colonies in the early 1830s, as the British Parliament after much debate and a long public campaign, had abolished the institution of slavery in all her colonies in 1832 and voted to pay £15 million to compensate British slave owners in the Caribbean colonies who were required to free their slaves.

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<sup>1</sup> J.R. Dinwiddy, ‘The early nineteenth-century campaign against flogging in the army’, *English Historical Review*, Vol. 97, 1982, pp. 308–331.

<sup>2</sup> Henry Melville, *The History of Van Diemen’s Land from the year 1824 to 1835, inclusive*, first published 1836, (ed) George Mackaness, Melbourne, D.S. Ford, 1959, Part 2, pp. 46–47.

Historians from the 1970s onwards examined the structure and conditions of slavery and wrote extensively about the ways slaves manipulated their work conditions and owners, many gaining some control over their lives. Although this literature provided some insights into how ganged men (whether slaves, serfs, convicts or later prisoners of war) gained control over some aspects of their lives, in general, Australian historians concluded that the institutions and operation of slavery and transportation were quite different, even though there were superficial commonalities in the way all ganged men were controlled, worked and resisted.<sup>3</sup>

If ganging was an effective deterrent that created a significant disincentive for convicts to disobey orders, an observer would expect to see only small numbers of men sentenced to gangs. But in fact, ganging increased during Arthur's administration. In 1828, 11% of all male convicts were ganged or incarcerated as punishment and one historian estimated this had increased to at least 24% in 1834 and had risen to 31% of the male convict labour force the following year.<sup>4</sup> Other compilations of data shown in Table 5.1 suggest slightly lower rates, but are still high enough to demonstrate that increasing numbers of male convicts were sentenced to ganging as punishment. It is not certain whether this was because convict resistance increased or because the administration needed to expand the labour force needed for public infrastructure works and did so by handing down harsher punishments for trivial offences.

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<sup>3</sup> For some of the slavery analysis see Eugene D. Genovese, *Roll Jordan Roll. The World the Slaves Made*, London, Andre Deutsch, 1975; Rhys Isaacs, *The Transformation of Virginia 1740-1790*, New York, Norton, 1982; Peter Kolchin, *Unfree Labour, American Slavery and Russian Serfdom*, Cambridge; Massachusetts, Belknap Press of Harvard University Press, 1987 also *American Slavery 1619-1877*, New York, Hill & Wang, 1993; Robin Blackburn, *The Making of World Slavery, From Baroque to the Modern 1492-1800*, London, Verso, 1997, and David Eltis, *The Rise of African Slavery in the Americas*, Cambridge, Cambridge University Press, 2000. For Australian historians on the comparison with transportation, see especially J.B.Hirst, *Convict Society and its Enemies*, Sydney, Allen & Unwin, 1983. See also R.A. Radford, 'The Economic Organisation of a P.O.W. Camp,' *Economica*, Vol. 12, November 1945, pp. 189 – 201.

<sup>4</sup> Shaw, *Convicts and the Colonies*, Table: 'Distribution of Convicts', p. 257. These percentages seem a little high as Table 5.1 implies, but probably reflects the use of different data produced by the Convict Department.

Table 5.1: Estimates of the numbers of male convicts in Van Diemen's Land and their distribution to settlers, in gangs and penal stations, and in other government positions.

	1834	1835
Total male	14641	16956**
prisoners		
Available	245 mechanics	220 mechanics
to settlers	6046 assigned	6475 assigned
	1887 TOLs*	2462 TOLs*
	<b>(56%)</b>	<b>(54%)</b>
Ganged,	1246 ganged	2919 ganged
In chains or	851 chain gang	805 chain gang
penal settlements	881 Pt Arthur	1172 Pt Arthur
	57 jails	33 jails
	<b>(21%)</b>	<b>(29%)</b>
Others	291 police	338 police
in government	839 Engineers Dept	516 Engineers Dept
employment or	161 invalids	716 Other Depts
“on stores”	78 hospitals	143 invalids
	<b>(9%)</b>	72 hospitals
		<b>(11%)</b>
Other categories	<b>(14%)</b>	<b>(6%)</b>

Sources: James Ross, *Hobart Town Almanack and Van Diemen's Land Annual*, Hobart Town, James Ross Printer, for 1835, pp. 47, 50-51 and for 1836, pp. 46, 51. *Almanacks* published the statistics for the previous year.

\*TOLs refer to ticket of leave convicts ie prisoners who were allowed to find paid work for themselves and live in the community, after a portion of their sentence expired.

\*\* See Appendix 3. *Almanack* states there were a total of 15724 men in the Return for 1835. This is an incorrect addition of the numbers of men then listed at various locations (16956). Mistakes in Convict Department convict numbers were frequent. Table 5.1 uses the correct total for all the men listed in the Return.

Ganged convicts had to provide some sort of economic return to the administration to offset the high cost of keeping them and the colonial administration was keenly interested in using this labour resource to its best advantage. Governor Arthur, through the chief police magistrate's office, reviewed most sentence recommendations from magistrates and frequently sent convicts to different road parties than those recommended by the local magistrates. Most of the road parties worked on the construction of the Hobart to Launceston main road and were housed at intervals along its path in temporary barracks. Other small towns such as Richmond, Green Ponds, Perth and Westbury had smaller road parties allocated to improve the roads leading to them. The size of the road parties varied greatly, even from one year to the next, as the Governor juggled the different priorities and the

urgency of finishing particular stretches.<sup>5</sup> Most of the ganged men in road parties worked unchained under lesser sentences. Chain gangs were only located at a few of the road stations largely because of the high cost of having to house them more securely to stop them escaping.

Historians have increasingly brought our understanding of convict gangs into sharper focus. Many earlier convict histories focused on accounts of the brutality in the road and chain gangs and penal settlements, where the lash and leg irons were evidence of a severe approach by convict administrations, intent on forcing men to reform. Robson, Manning Clark and Hughes endorsed this folkloric approach in varying degrees.<sup>6</sup> Hirst's book *Convict Society and its Enemies* and Nicholas's *Convict Workers*, a quantitative study of the records of 17,000 convicts to New South Wales and Van Diemen's Land broke with the former traditions and set the agenda for more recent scholarship. Hirst redressed the balance by claiming that convicts often held the upper hand and were able to shape their material conditions.

Nicholas was the first to propose a radical new perspective on the skills of convicts and the nature of the economy in which they laboured. Convicts were the colony's first working class and offered a wide range of skilled and unskilled labour to private employers and the administration. Nicholas *et al* argued that generally convicts had been well treated, as they were valuable workers. As government workers, they built the infrastructure of both colonies and provided the middle level staff to manage and administer the convict system. They received fair treatment, good rations, adequate housing, medical care and reasonable working hours.<sup>7</sup> The bureaucratic model, devised to manage convicts working in road parties and other government jobs, had a fixed division of work regulated by rules and duties and was subjected to strict

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<sup>5</sup> Peter MacFie, "Dobbers and Cobbers: Informers and Mateship among Convicts, Officials and Settlers on the Grass Tree Hill Road, Tasmania, 1830-1850", *Tasmanian Historical Research Association*, Vol.35, 1988, pp. 112-127

<sup>6</sup> Robson L.L., *The Convict Settlers of Australia An Enquiry into the Origins and Character of the Convicts transported to New South Wales and Van Diemen's Land 1788-1852*, Carlton, Melbourne University Press, 1965; Clark, C. M. H. *A History of Australia. New South Wales and Van Diemen's Land 1822-1838*, Vol.2, Melbourne, Melbourne University Press, 1968; Hughes, Robert *The fatal shore: a history of the transportation of convicts to Australia, 1787-1868*, London, Collins Harville, 1987.

<sup>7</sup> Stephen Nicholas, *Convict Workers: reinterpreting Australia's past*, Cambridge University Press, 1988, p. 196.

supervision by convict overseers, who reported on the performance of individual workers and the quota of work output achieved. Men were assigned to gangs or teams according to their skills and even many of the unskilled had opportunities to retrain as valuable workers. Control was maintained by using incentives to encourage convicts to achieve their weekly quota. Cruel punishment was rare because most ganged convicts responded either to incentives or the general removal of these privileges if they were uncooperative.<sup>8</sup> These assertions have been subjected to a great deal of subsequent scrutiny. While the narrow quantitative approach of Nichols *et al* has been widely criticized, the main thrust of their argument has been supported.<sup>9</sup>

Two issues of concern remain. The first was that the 'convict voice' had become a casualty of the emphasis that *Convict Workers* place on quantitative data.<sup>10</sup> This criticism sponsored a growing number of case studies of individual convicts, where narratives existed that purported to be written by the convicts themselves.<sup>11</sup> Many of these texts were authored by convicts who had failed to cooperate with a work based system of punishment, and so had slipped down through the system into the increasingly severe punishments found in chain gangs and penal settlements.

The second main criticism of Nicholas was that as the sources that he used were largely official statistics they provided little indication of the extent which convicts resisted attempts to make them conform. Penal stations, in particular, did not fit Nicholas's benign model. It was in the administration's interests to make these places

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<sup>8</sup> *Ibid*, p. 164.

<sup>9</sup> Hamish Maxwell-Stewart, 'Convict Workers, "Penal Labour" and Sarah Island: Life at Macquarie Harbour, 1822 – 1834' in *Representing Convicts New Perspectives on Convict Forced Labour Migration*, Ian Duffield & James Bradley (Editors), Leicester University Press, 1997; and W.M.Robbins, 'The Lumber Yards: a Case Study in Management of Convict Labour 1788 – 1832,' *Labour History*, No. 79, November 2000, pp. 141 – 161.

<sup>10</sup> Raymond Evans & William Thorpe, 'Power, Punishment and Penal Labour', *Australian Historical Studies*, Vol. 25, No.98, (1992), p. 94- 95.

<sup>11</sup> See, as examples, Ian Duffield, 'Deconstructing and Reconstructing Accounts of "Black" Caesar's Resistance at Botany Bay', Dept of History, University of Edinburgh, at Workshop in '*Beyond Convict Workers*, Dept of Economic History, University of New South Wales, 27 October 1995; Ian Duffield, 'Problematic passages: "Jack Bushman's" convict narrative', in *Representing Convicts: New Perspectives on Convict Forced Labour Migration*, Ian Duffield and James Bradley, (eds), London, Leicester University Press, 1997, pp. 20–42; Hamish Maxwell-Stewart, 'The Rise and Fall of John Longworth: Work and Punishment in Early Port Arthur', *Tasmanian Historical Studies*, Vol. 6, No. 2, 1999, pp. 96-114.

as brutal as possible to control the majority of other convicts through fear. Regulations were flouted regarding hours of work and punishments were harsh. Consequently several types of convict responses emerged in penal stations: the iron men who cared nothing about punishment; the resisters who found ways of defying the system with a minimum of punishment; the collaborators who became convict managers- overseers, policemen, watchmen; and the silent servers who conformed to the rules.<sup>12</sup> Atkinson proposed a similar hierarchy of defiance from convicts who worked for private masters: verbal or physical attacks; appeals to a 'just' authority; withdrawal of labour; and compensatory retribution.<sup>13</sup> Taken together, these two schemas cover most of the responses by convicts to enforced labour and were probably used at some time by most of them, wherever they worked. In contrast to earlier histories, most historians of convict labour now see convict offence records as evidence of a dialogue between masters and the state on one hand, and convicts on the other. Defiance was not necessarily a response that all convict workers learned in the colonies. The label of 'convict' that historians impose on individuals, superficially strips a person of their rich former community roles, learnings and experiences and so can fail to acknowledge that resistance could be as deeply embedded in a convict's former traditional community and working roles, as much as a reaction to the convict administration.

The resistance debate also produced a series of responses that explored more fully the experiences of convicts in road and chain gangs and penal settlements. These revealed the diversity of jobs, opportunities and roles even in the most feared penal stations as well as in chain gangs and road parties. A convict with skills, or who could acquire skills, and who could manage his own behavior was potentially able to rise through the hierarchy of jobs in a punishment gang or penal station. A finely balanced set of incentives and disincentives operated even in these grim settings. But this balanced exchange between the administration and the ganged men was not always the case.

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<sup>12</sup> Raymond Evans & Bill Thorpe, 'Commanding Men: Masculinities in the Convict System', *Journal of Australian Studies*, No. 56, 1998, pp. 22-24; and 'Power, Punishment and Penal Labour', *Australian Historical Studies*, Vol. 25, No. 98, 1992, pp. 93-94.

<sup>13</sup> Alan Atkinson, 'Four Patterns of Convict Protest,' *Pastiche 1: Reflections in Nineteenth Century Australia*, Penny Russell & Richard White (eds), Allen & Unwin, 1994, p. 67.



McFie has demonstrated that while the administration required complete obedience from ganged workers in exchange for indulgences, it often failed to deliver its side of the bargain by not supplying the regulated levels of accommodation, food and clothing that men needed to work effectively. The Grass Tree Hill road party, charged with constructing the Risdon to Richmond road from 1833 to 1838, frequently experienced shortages of clothing and food. One result was that men were punished for stealing food and clothes from other prisoners as well as from houses and farms nearby. Men who were caught setting kangaroo traps to supplement rations were also punished. Shortages led to incidents of resistance when men refused to attend church, withdrew their labour a number of times in 1834 and in 1835 five men openly rebelled threatening soldiers with their pick handles before absconding.<sup>14</sup>

By contrast, Maxwell-Stewart documented the importance of the very productive convict shipyards at Macquarie Harbour penal station and the complexity of the system of intermediate work gangs that supported this industry. Incentives such as extra rations, the right to leisure time fishing, separate living quarters for the shipyard workers, tobacco and tea rations were provided to encourage gangs that filled their work quotas. Skilled convicts, overseers, constables and clerks, received cash wages and better than average living conditions which they negotiated for their collaboration with the free managers.<sup>15</sup>

The uncooperative worked in the two punishment gangs at unskilled work such as felling timber and rafting it back to the main settlement; a further gang, containing former absconders, worked in irons turning the mill wheels to grind flour. A thriving camp black market provided mechanisms for the illicit exchange of surplus or stolen food and goods, the chief currency being bread. Maxwell-Stewart saw no contradiction between Nicholas's concept of convicts as workers even in places such as Macquarie Harbor, but argued that penal labour also existed as punishment, thus

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<sup>14</sup> MacFie, 'Dobbers and Cobbers', *THRA*, pp. 117-118.

<sup>15</sup> Hamish Maxwell-Stewart, 'The Rise and Fall of John Longworth: Work and Punishment in Early Port Arthur', *Tasmanian Historical Studies*, Vol.6, No.2, 1999, pp. 97-114. Maxwell-Stewart deconstructs the turbulent career of Longworth as a convict constable at Port Arthur.

penal stations had both an economic and ideological function in the convict system and also that it was the unskilled ganged men who were less likely to win better conditions for themselves and more likely to stay in the worst jobs that attracted the highest punishment rates.<sup>16</sup>

Two views emerged in colonial society by the late 1830s about punishment and reform. Arthur used his persuasive skills with the Colonial Office to try to convince them that he administered a model system which was characterized by a measure of certainty. He wanted to ensure that convicts knew with precision what punishments particular offences would attract and conversely the indulgences which would flow as a consequence of good conduct.<sup>17</sup> But it is when the indulgences and the punishments are weighed against each other that a sanguine model of convict life in a gang or penal settlement starts to come unstuck. Not all road parties or penal stations were administered with the same sense of fairness that Arthur required. Molesworth described them as places of “unmitigated wretchedness” and the former Chief Justice of New South Wales, Sir Francis Forbes, argued that, “the experience furnished by these penal settlements has proved that Transportation is capable of being carried to an extent of suffering such as may render death desirable”.<sup>18</sup> In this way, the system could work against itself. The more wretched the men were when sentenced to punishments in road parties, chain gangs or penal stations, the more they were likely to try to abscond. The rate of absconding for men varied depending very much upon where they worked. Table 5.2 shows that during 1834 only 2% of males absconded from private service despite two thirds of male convicts being employed as assignees or holding tickets of leave. By comparison, 24% of the road gang population absconded from their gangs, where the work was arduous, living conditions poor and escape was easy to make. The lower percentages of men who escaped from either chain gangs (6%) or Port Arthur (1.2%) is explained by the much tighter security under which the men were kept. Even so, it is surprising that 23 men in 1833 and a

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<sup>16</sup> Maxwell-Stewart, ‘Convict Workers, Penal Labour and Sara Island’, *Representing Convicts*, pp. 148-149, 157.

<sup>17</sup> Colonel George Arthur, *Defense of Transportation in reply to the remarks of the Archbishop of Dublin in his second letter to Earl Grey*, London, George Cowie and Co., 1835, p. 32.

<sup>18</sup> Great Britain, Parliament, House of Commons, Select Committee on Transportation, *Report from the Select Committee of the House of Commons on Transportation: together with a letter from the Archbishop of Dublin on the same subject: and notes by Sir William Molesworth*. London, Henry Hooper, 1838, p. 16.

further 11 men in 1834, were able to abscond from Port Arthur, despite its highly publicized strategies to stop men from leaving the peninsula.<sup>19</sup>

Table 5.2: All absconders for 1834 from private service, gangs & Port Arthur penal station.

	Location	Number of convicts on strength, 31 December 1834	Number of absconders for 1834	Percentage of absconders from location
Males	Chain gangs	851	48	6
Males	Road parties	1246	304	24
Males	Port Arthur	881	11	1
Males	Private Service	6046	136	2
Females	Private Service	1518	90	6

Sources: *Government Gazette*, weekly publication, 1 January 1833–30 December 1834, Hobart, AOT, Data taken from Matt Loone, XL Spreadsheet, Honors Thesis, University of Tasmania, 2005. James Ross, *Hobart Town Almanack and Van Diemen's Land Annual*, Hobart, 1835, pp. 47, 50-51.

It is also worth noting that around eighty men absconded from government employment in 1834.<sup>20</sup> None of these convicts was working under a punishment sentence: many were skilled tradesmen working on public works, and it has sometimes been assumed that they worked under relatively good conditions with indulgences, some even being paid for their work. Amongst the sites they ran from were the colonial hospital, the Mt. Nelson signal station, the Survey Department, the Brig *Isabella*, the Commissariat Office and the Muster Master's Office.

Absconding represented a significant problem for the administration because around 6% of all males absconded during a year, even though most were recaptured relatively quickly. A small number, however, eluded capture for between one to four weeks and some remained at large for much longer. The 1835 General Muster of male convicts listed around 65 convicts, who absconded between January 1833 and

<sup>19</sup> Matthew Loone, Excel Spreadsheet, *Notices of Absconders, Government Gazettes, 1833, 1834*. UTAS, 2005. Thesis, Bachelor of Arts with Honours in History, School of History and Classics, University of Tasmania, 2005.

<sup>20</sup> *Ibid.*

December 1834 and were still at large in December 1835. The muster also recorded that around 3 convicts per year between 1804 and 1832 remained unaccounted for.<sup>21</sup>

A general look at the men who absconded shows that most men ran only once a year, although there were a small number of men in all road gangs who absconded twice. Determined or serial absconders were rare and only 16 men, drawn from all employment sectors across Van Diemen's Land, attempted to abscond 4 or 5 times in the 24 months of 1833 to 1834.<sup>22</sup> Most men absconded in the months of mild weather from February to May or at the peak times of planting or shearing for those in private service on farms during the months of August to October and again throughout December. They were mostly young men in their twenties who had only been in the colony three years or less. Only two or three men were aged in their forties and one aged 54 years. There were no mass breakouts from gangs, most ran singly or in pairs and seemed to split up on the road and go their own ways.

There were three main factors that determined the rates of absconding. These were the ease or difficulty of leaving a site, the degree of unpleasantness in the work or living conditions the men experienced, and their access to cash to purchase food, clothes and shelter, while on the run. For example, a chain gang was normally locked down at night in a secure barracks. In addition to wearing irons the men were not permitted to work outside the compound for local settlers during weekends.<sup>23</sup> While they were able to illegally trade and barter for goods within the gang or penal settlement, their access to cash was restricted.

By comparison, unchained men in road parties had the best opportunities to abscond. They could leave their gangs both during the work day and also at weekends, when

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<sup>21</sup> HO/10/49, General Convict Muster, 1835, AOT. Sample of 2700 convicts from the 1835 Muster. Eleven men from the sample had absconded in 1833 or 1834 and were still listed as missing in December 1835. This represented 64 men out of the total of 15724 convict men on the island in December 1835, reported in James Ross, *Van Diemen's Land Almanack*, 1836, p. 51. These estimates are indicative only as convict record keeping could be inaccurate.

<sup>22</sup> Matt Loone, Excel Spreadsheet, *Notices of Absconders, Government Gazettes*, 1833,1834. UTAS, 2005.

<sup>23</sup> C.M.H. Clark, *Select Documents in Australian History, 1788 – 1850*, Reprint, Melbourne, Angus & Robertson, 1962, pp. 140-141.

many went to work for settlers. Many also had access to cash that they earned from weekend work. Like convicts in chain gangs they frequently experienced poor living conditions and strenuous work requirements. As a result there was plenty of incentive to leave, at least for short periods of time, in order to gain some relief from gang life. It is not therefore surprising that road gangs had the highest rates of absconding, for those who worked in them had both the motive and the opportunity to make a bid for freedom.

The pattern of absconding was frequently different from the various road parties working on the highways. Almost all road parties experienced absconding, with the larger road parties having correspondingly larger numbers of men leaving them. Yet each large road party experienced different rates of absconding, which suggests that at various times, conditions in some road parties were worse than in others. Spring Hill road party had a population of 111 men in 1833, but only 21 men were recorded as having run. Grass Tree Hill with around only 50 men, had 30 absconders listed in the same year. Even in 1834, when both the Grass Tree Hill and Spring Hill road parties each had a complement of around 110 convict workers, 66 were listed as absconders from Grass Tree Hill, and on the other hand, only 24 from Spring Hill. Constitution Hill Road Party was one of the largest with a complement of around 180 convict workers, but had only 40 absconders listed in the 1833 Gazette. These rates of absconding seem insignificant when compared to Notman's road party in 1833. One hundred and forty nine men absconded in 1833, yet this dropped to 69 the following year. These rates of absconding are not strictly comparable between gangs, as the sizes of gangs varied throughout each year, as did the total number of men, who arrived and were discharged from each gang, with short sentences of three to six months. Even so, in most large gangs, absconding was a continual nuisance for the gang superintendents. It also occurred in small gangs like Deep Gully with four absconders and New Norfolk with two in 1833, and Perth and Westbury with three each in 1834. Absconding was endemic throughout all road parties regardless of their size.<sup>24</sup>

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<sup>24</sup> Matt Loone, Excel Spreadsheet, *Notices of Absconders, Government Gazettes*, 1833, 1834, UTAS, 2005.

Continuous absconding had a significant impact on the Campbell Town district. This was not caused by district convicts absconding because fewer than twenty ran in 1833 and 1834 out of a population of around 900 men. Instead, relatively large numbers of convicts from road parties stationed outside the district were attracted to particular locations in the Campbell Town area. Most of these came from gangs at Spring Hill, Constitution Hill and Oatlands, which were larger gangs within 70 km of the Campbell Town. Of the sixty seven convict absconders apprehended and processed in the Campbell Town court during 1835, 18 were from Spring Hill, 13 from Constitution Hill and 12 from Oatlands. Several came from road parties that were further away: Notman's road party at Green Ponds; Flat Top Hill; and the Sorell Rivulet; and one each from the Survey Department and the Green Point road party.<sup>25</sup>

In addition to the larger road making gangs, a number of smaller gangs had been formed round the island in the mid 1830s. They were under the direction of the police magistrate's officers and completed small tasks like building and maintaining stables and government huts, repairing footpaths or roads and gardening. Convicts who were apprehended in the Campbell Town Police District came from a selection of all of these types of government gangs, as well as from the larger road parties, where the work conditions may have been more onerous. Absconders also traveled down into the district from the north of the island too: five were from the Perth road party; four each from the Westbury road party and the Launceston chain gang; and three from the Launceston barracks. Some of the absconders may have been traveling through the district, but others appeared to treat it as a destination and got accommodation in remote shepherds huts where they paid in cash or goods and stayed for several nights or longer, depending upon what they could afford.

Cash appears to have been one of the key drivers in enabling ganged men to abscond. Cash was more available to both convicts working in gangs and also to assigned men than we may have assumed and was probably the key factor that made absconders welcome in most of the remote shepherds huts. Despite Arthur's regulations forbidding private employers to pay convict workers, many employers did so and

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<sup>25</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT.

used cash and extra rations as incentives to get satisfactory work from their convict workers.<sup>26</sup> The administration also paid some of its own convict workforce, such as convict police, clerks and specialized tradesmen, both in cash and extra rations that could be traded. Many convicts did not deposit the cash they earned in their government bank accounts despite the convict regulations that required them to do this.<sup>27</sup>

Martin Cash the bushranger, wrote about the cash economy he observed when he arrived at the Restdown road party. He had brought £3 to £5 with him for contingencies and like other prisoners there was forced to pay one shilling for his supper of fat-cakes and boiled mutton if he wished to eat better quality food than the rations that were supplied.<sup>28</sup> John Davis of the Ross Bridge gang was searched on the street in Ross by a constable who discovered he was carrying five £1 notes and five Spanish dollars.<sup>29</sup> There is evidence that many convicts sold their good clothes *en route* to a gang. John Ellis, a ticket of leave blacksmith, observed one prisoner under escort selling a pair of trousers and some boots to another convict.<sup>30</sup> Two Quaker observers noted that many convicts arrived at the gangs “almost destitute of clothing”, a perpetual problem for gang superintendents who had limited supplies of new clothing and boots.<sup>31</sup>

But more probably, most cash came into the gangs as wages earned by ganged convicts who also worked in a variety of jobs for local farmers and traders. Convicts

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<sup>26</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, 1835, AOT. A number of cases in the bench book illustrate this. For example, George Emmett, a shopkeeper, admitted in court to paying wages to his two convict shop men when charging them with stealing liquor. See Trial of Richard Taylor, 19 August 1835. John Beckett’s trial on 28 August 1835, revealed he often had considerable quantities of cash, which his master believed he earned through some sort of illegal business dealings. Peter Murdoch, a substantial farmer told the Molesworth Committee that many farmers paid their convict servants wages and/or goods to obtain good work from them. He gave details of the wages he paid to his assigned men. Great Britain, Parliament, House of Commons, Select Committee on Transportation, *Report from the Select Committee of the House of Commons on Transportation*, Sir William Molesworth, chairman of the committee, Adelaide, Libraries Board of South Australia, 1967, Vol. 1, p. 121.

<sup>27</sup> Ross, *Almanack for 1833*, p. 59.

<sup>28</sup> MacFie ‘Dobbers and Cobbers,’ *THRA*, p. 122.

<sup>29</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, 1835, AOT, Trial of John Davis, 30 May 1835.

<sup>30</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, 1835, AOT, Trial of Terence McManus, 29 October 1835.

<sup>31</sup> MacFie ‘Dobbers and Cobbers,’ *THRA* p. 116.

in road parties, but not in chain gangs, were permitted to work on Saturdays and Sundays for local settlers. Most of the recorded cases in the 1830s indicate the men were paid in cash. Several men in the Grass Tree Hill gang worked for one Spanish dollar a week at reaping and threshing or for acting as watch keepers for local farmers. Another, who earned £2.12.0 for burning 3000 bricks for a local builder, paid the overseer twelve shillings to allow him to use the government cart.<sup>32</sup> Some Restdown gang members were employed casually by the local publican.<sup>33</sup> William Gates, while working in the Green Ponds gang, was offered work on a Saturday by a settler and got paid in tobacco, flour, sugar & tea, which he hid outside the camp to keep it safe.<sup>34</sup> Peter Peers absconded from Notman's gang and returned to Campbell Town to claim wages of £6/17/9 that the local post master owed him for services Peers had rendered while he was a member of the Ross Bridge gang.<sup>35</sup> Another of the Grass Tree Hill gang, the gate keeper John Pett was described by the local magistrate as "a dangerous character, extremely cunning and possessed I am certain of much money." Pett was employed casually by a local emancipist of bad repute.<sup>36</sup> As some of these examples suggest, some hut keepers and even gate keepers worked for settlers during the week while the ganged men were out on the roads and even overseers were willing to take kickbacks from the convicts to allow them to use government equipment.

Cash and goods that came into the gangs helped fuel an internal black economy. Those earning outside wages or with excess goods to trade were able to employ other gang members to provide goods and services for them. Bewley Tuck from the Grass Tree Hill gang was charged with making clothes to sell and Ian Belcher a shoemaker was charged with making shoes for a settler's family.<sup>37</sup> Cook house workers supplied special meals of meats, potatoes and baked bread to those who could afford them, instead of the standard meals of oatmeal gruel, damper and salt pork. Sometimes they

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<sup>32</sup> *Ibid*, p. 121.

<sup>33</sup> *Ibid*, p. 121.

<sup>34</sup> William Gates, *Recollections of Life in Van Diemen's Land*, first published 1850, George Mackaness (ed), Sydney, D.S. Ford Printers, 1961, Part 1, p. 67.

<sup>35</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of Peter Peers, 16 February 1835.

<sup>36</sup> McFie, 'Dobbers and Cobbers', *THRA*, p. 121.

<sup>37</sup> McFie, 'Dobbers and Cobbers', *THRA*, p.117, p. 121.



increased their profits by skimming the stores meant for the ganged convicts or stealing directly from the commissariat store.<sup>38</sup>

The Campbell Town bench book records also provide details of a number of local 'laggers', all ticket of leave men, who trafficked with gang members. James Johnson sold liquor to the Campbell Town foot gang, James Baird, a carter, bought lime from the Oatlands gang and William Nailor sold charcoal that the Ross government gang had produced, to a local blacksmith.<sup>39</sup> Finally, when William Fitzgerald bought 3000 shingles from James Hunt of the Grass Tree Hill gang, he was intercepted as he was driving the government cart to deliver the goods.<sup>40</sup>

Trading inside gangs was a well established practice throughout the convict period. Even in the more isolated penal settlements, where contact with the outside world was more tightly controlled, internal trading between convicts took place. Maxwell-Stewart's examination of trading circles at Macquarie Harbor demonstrated that bread was the internal unit of currency there, and services were provided amongst convicts with payment in bread or other goods.<sup>41</sup> A range of items were also regularly stolen from the stores or gangs' tools to supply the demand.<sup>42</sup> Within the Grass Tree Hill gang, the blacksmith sold rum to men in the chain gang as well as loosening their chains for them and bread was sold for tobacco.<sup>43</sup>

There were other ways of generating money within gangs. Overseers could extract payment from convicts who wanted easier jobs.<sup>44</sup> Clothing was stolen from nearby

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<sup>38</sup> Linus W. Miller, *Notes of an Exile in Van Diemen's Land*, New York, W. McKinstry & Co., 1846, p. 284.

<sup>39</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trials of James Johnson, 8 September 1835; James Baird, 2 February 1835 and William Pitcher 10 January 1835.

<sup>40</sup> McFie, 'Dobbers and Cobbers', *THRA*, p. 120.

<sup>41</sup> Maxwell-Stewart, 'Convict Workers, Penal Labour and Sara Island', *Representing Convicts*, p.151.

<sup>42</sup> There is some evidence that tools were stolen so that ganged men could work for themselves after work or at weekends eg. Robert Alford from the Ross gang refused to give up a tool when ordered by his overseer, LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, ATO, Trial of Robert Alford, *Persian*, 23 May 1835.

<sup>43</sup> McFie, 'Dobbers and Cobbers', *THRA*, pp. 118-119.

<sup>44</sup> Miller, *Notes of an Exile*, p. 328 on overseers at Port Arthur and Stephen S. Wright, *Narrative and Recollections of Van Diemen's Land During Three Years Captivity of Stephen S. Wright*, (ed) Caleb Lyon, New York, J. Winchester, New World Press, 1844, p. 21.

farms or from other gang members and sold.<sup>45</sup> Gang members could steal cash from each other, a common complaint in gangs that caused men to carry their cash with them, or hide it in the barracks or the bush outside.<sup>46</sup> Gambling also probably helped redistribute some of the cash in gangs. Men were locked in their huts at sunset with little or no supervision until morning. Games of chance played for money or goods could help pass the time although there were few prosecutions for it.<sup>47</sup> Observers sometimes commented that gambling was one of the chief recreations of the convict classes.<sup>48</sup>

It is difficult to estimate how much cash circulated in gangs, but it could potentially be substantial. Conservatively, if in a gang of 100 men, thirty brought an average of £2 each when they arrived, and twenty of the gang each earned an average of £5 during the year for work they did for settlers, and another £40 was earned through gang members selling goods they produced to settlers, then this gang could have as much as £200 circulating in it for the year. In gangs where the trade with settlers was brisk and outside work was well paid the amount could be more. It was this money that enabled numbers of absconding gang members to buy services when they ran.

The existence of remote shepherds' huts in the Campbell Town police district was well documented in the Magistrate's Bench book for 1835. In general magistrates and justices of the peace tried to discourage the trading that they believed took place there. They suspected that sheep duffing, trading in stolen goods, the selling of alcohol without a license, possibly prostitution and the sheltering of runaways was fostered in a number of huts. The support provided for runaways was part of a legitimate trade for many poor travelers who used the back roads and paid for cheap accommodation in the huts as the inns on the main roads were generally too expensive. These services were mostly, but not exclusively, supplied by emancipists and ticket of leave men as they had greater freedom than assigned shepherds to engage in commerce. While many farmers complained of the bad influence of these

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<sup>45</sup> McFie, 'Dobbers and Cobbers', *THRA*, p. 117

<sup>46</sup> Gates, *Recollections of Life in Van Diemen's Land*, p. 67.

<sup>47</sup> McFie, 'Dobbers and Cobbers', *THRA*, p.119. Two ganged men charged with playing cards. There were no prosecutions of ganged men in the 1835 by the Campbell town bench and only one against a woman.

<sup>48</sup> Harris, *Settlers & Convicts*, pp. 28, 49.

huts on the convict and emancipist population, it was difficult to prosecute their owners unless an unhappy customer complained to the police.

The district police knew of many huts that they believed were run by men of bad character, but were unable to close them or prosecute. Captain Crear, the local justice of the peace, believed that sheep stealing, prostitution and harboring of runaways was taking place at James Reilly's hut on Mr Whitechurch's farm, "Belle Vue", on the South Esk River. A surprise visit to the hut by police only netted a ticket of leave man who was prosecuted for consorting, even though he had stayed at the hut for several months, an activity for which he had his employer's permission while mustering stock. Police glimpsed another two men and a woman in the back room of the hut, but the hut holder prevented the police from speaking to them, even though there was a suspicion the woman may have been a runaway. They were in fact a visiting peddler and his wife of no fixed address.<sup>49</sup>

Evidence of illegal interactions between assigned convicts, runaways, ticket of leave men and emancipists emerged at "Ellenthorpe" farm, a property belonging to George C. Clark. While coming home from Ross in his carriage, Clark saw a man driving off some of his sheep in the direction of Black Tom's hut.<sup>50</sup> The man was later identified as John Wood a serial absconder from the Oatlands and Spring Hill road parties. Whenever Wood escaped he headed for Ross and Little Forresters Creek, as he had previously worked for a farmer there. While the police magistrate agreed with Clark that there was a great deal of circumstantial evidence that Wood was engaged in sheep theft, he sentenced Wood to 18 months at Port Arthur for absconding, as this was a charge which was much easier to prove. Despite his bad reputation Black Tom could not be prosecuted at all.<sup>51</sup>

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<sup>49</sup> LC 83/1 Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of Ralph Ellis, 11 April 1835.

<sup>50</sup> This is most likely a reference to the emancipist Tom Jones, also known as 'Black Jones', possibly of Afro-Caribbean descent. His hut was adjacent to G.C. Clarke's farm. See also LC 83/1 Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of William Buchanen, 6 November 1835. This trial gives the location of Tom Jones hut, and his additional appellation of 'Black Jones.'

<sup>51</sup> Webb's escapes from the Outlands gang (4 April 1835) and Spring Hill road party (28 April 1835) are confirmed in Spreadsheet prepared by Mathew Loone, Honors Thesis, UTAS, 2005.

While certain huts had a bad reputation, in fact most of those used by emancipists were places where socializing, drinking, exchanging information and trading in goods and services could take place.<sup>52</sup> The subculture of convict hut life and the activities which took place there could be seen as a colonial counterpart of the less respectable working class districts in British cities where poor men and women could get cheap accommodation, socialize and make contacts for work or less legal activities. William Fisher's hut on the South Esk River was raided by police who found Ann Harding, a female assigned convict servant, gambling there. Harding had not traveled far but despite this she was sent to Launceston women's prison for absconding from her master. Fisher was fined ten pounds by the local magistrate for harboring a female absconder but the severity of the fine suggests the magistrate suspected Fisher was conducting a brothel but was unable to conclusively prove this.<sup>53</sup> For some convict men and women the lure of getting away from the drudgery of work and the need to socialize with their peers, away from the restrictions of the convict regulations, would be a motive strong enough to risk further punishment by absconding.

However, huts were not always benign places where absconders could rely on secure and secret accommodation as long as they could pay for these services. Both hosts and guests sometimes abused the hospitality. William Buchanan was an assigned servant of G.C. Clark's on Ellenthorne farm when he was charged in November 1835 with "Suspicion of collusion with prisoners from Spring Hill and Constitution Hill road parties to abscond for the purpose of enabling him to collect reward." Clark believed Buchanan had captured six absconders at different times and at least two others had escaped from him. This was a lucrative trade for Buchanan as the going rate for accommodation at safe huts in the area, including food and possibly grog, was around five shillings a day, although this was probably very negotiable.<sup>54</sup>

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<sup>52</sup> Hindmarsh, Bruce, 'Beer and Fighting: Some Aspects of Male Convict Leisure in Rural Van Diemen's Land 1820-40', *Journal of Australian Studies*, Issue 63, 1999, *passim*.

<sup>53</sup> LC 83/1 Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of Ann Harding, 9 February 1835; and Trial of William Fisher, 16 February 1835. Harding was assigned to Captain Serjeantson whose farm was nearby. Probably most assigned servants and ticket of leave men in the area quickly learned that Fisher's hut was a venue for socializing, and many took advantage of its services.

<sup>54</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of William Buchanan, 6 November 1835.

Constables Eastwood and Johnson apprehended an absconder named Pearson at Black Jones hut who told him that after being sheltered by Buchanen, he agreed for Buchanen to hand him over to police if Buchanon paid him ten shillings of the reward. Constable Johnson reported to the magistrate that:

I saw runaway Pearson apprehended by Eastwood He told us that he had run away from Mr Clarks shepherd meaning Buchanan the night before- because he had not got ready money to give him which he had promised, ten shillings- He told us at the same time that another runaway had absconded with him and was in the Tier - Buchanan was to have given Pearce ten shillings when he got the reward, but he did not like to trust him- Pearson also said that if he would abscond again and go to Buchanan, he Buchanan would give him a pound and keep him three or four days at the hut.<sup>55</sup>

Thomas Phillips, another convict shepherd of Clark's was also stationed at the Three Mile Hut with Buchanen and provided more insights about the relationship between absconders and hut keepers. Some convict workers preferred to turn a blind eye to the activities that occurred about them. While this put them in jeopardy of being charged with harboring, this appears to be a risk that they were prepared to take rather than break ranks. Phillips, however, was willing to give evidence once the absconders had been captured. What he had to say was revealing. In his words:

I am shepherd to George Carr Clark esq stationed at the three mile hut with Buchanan Fore (four) runaways were taken by Buchanan at two different times and taken to the hut, The two first came near the hut and the other two I found at the hut when coming home in the evening. They were sitting down one had his trousers off , the other was smoking- Buchanan was sitting down in the hut- one of the runaways made himself known to me his name was Chance. He said I wish I had known that you was here- you might as well have had us as this one meaning Buchanan- I told them I would not have anything to do with them - Buchanan went outside the hut to get a piece of stuff to mend the runaways trousers - Chance said: "If you like to look out I will clobber Buchanan and you might take me the next morning"- The

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<sup>55</sup> *Ibid.*

runaway said he had been at Springhill and had bolted and had ten shillings given him by the man who had taken him- the runaways taken last said they had received ten shillings at the Hanging Sugar Loaf - meaning Buchanan. I had a word or two with Buchanan about his taking up my bed by bringing runaways there. Buchanan and himself went to bed and the runaways had some clothes from them to lay on the floor, they were not secured and could have gone away if they liked, but did not.<sup>56</sup>

It would have been difficult for the police magistrate to know how truthful any of the witnesses were in such cases. Some convicts could be very pragmatic about the need to implicate others and minimize their own participation in illegal activities. The assignment system, with its policy of rewarding informers and paying bounties for handing in absconders, encouraged deception; and its harsh punishments encouraged pragmatism about personal survival. Whiteford did not charge Phillips but sentenced Buchanan to imprisonment with hard labour.

Not only were the local emancipists and convicts able to provide services that aided absconders in the many remote huts of the district, but the local geography of parts of the district facilitated the secret movement of absconders across it, and provided many low-hilled wooded areas on the backblocks of farms, where hut keepers could offer absconders accommodation and where they were unlikely to be disturbed. The district was physically far less secure than Lieutenant Governor Arthur's optimistic deployment of police and soldiers outposts suggested.<sup>57</sup> The police boxes and soldiers could be easily avoided by more experienced convicts who had knowledge of the tracks into the St Pauls Plains, Lake River and Jacobs Sugarloaf areas: the three most popular local areas that many absconders attempted to reach.

Jacobs Sugarloaf was a hill high enough and distinct enough to be an excellent landmark for travelers. It was a magnet for absconders from the Spring Hill, Constitution Hill and Oatlands gangs, and many of them were familiar with the routes and tracks into this farming area between the Isis and Macquarie rivers, and

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<sup>56</sup> LC 83/1 Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of William Buchanan, 6 November 1835.

<sup>57</sup> See map page vi and appendix 9 for military placements in the district.

the safe huts there that would welcome absconders. Men could travel in the bush beside the Main Road up to Tunbridge, then turn left on a small track to Jacobs Sugarloaf. This gave them access to the farms and the low scrubby hills that provided them with cover. The tracks could be completely avoided if the travelers traveled through the low hills on either side. The more remote shepherds' huts were situated in these hills. The backblocks of the Dixon, Headlam, Brewer, Mackersey, Bayles and Wilson farms formed a natural corridor through this area.<sup>58</sup> A traveler could continue on to the Macquarie River and even as far as the remote Lake River. The geography of the area was perfect for travelers who wished to keep off the main tracks or linger out of sight.

On 2 June 1835 speculation erupted in the district as five middle class farmers from the Jacobs Sugarloaf area were publicly brought before police magistrate John Whiteford and his justice of the peace, Henry Jellicoe, to answer charges of harboring absconders on their farms. The bench book does not record who laid the charges, but it is likely that it was someone of considerable social standing. A likely contender is Charles Viveash, another justice of the peace and recent settler who constantly patrolled Baskerville farm on horseback.<sup>59</sup> Jacobs Sugarloaf was situated by one of his backblocks and his farm shared borders with most of the farmers who were charged.<sup>60</sup>

The charges were both a humiliation and a warning to Bassett Dixon, John Headlam, James Mackersey (son of the Presbyterian minister), Peter Brewer and George Wilson. No details of specific incidents were recorded in the Benchbook and all

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<sup>58</sup> Tasmanian Lands Department, Somerset, Map No. 1, Compiled and drawn at the Survey Office Hobart, April 1902. The Bassett Dixon, John Headlam and James Mackersey grants are marked on this map, clustered around Jacobs Sugarloaf. Peter Brewer, a former employee of the Bayles, was leasing around 500 acres from them. On this map, I believe part of his leased farm consisted of the two Bayles blocks of around 300 acres each, Lots 8057 and 9302, that are just south of Jacobs Sugarloaf. George Wilson's farm was also used by absconders. As he was not an original grantee, his farm is not identified on this map. It was a nine mile trip beside the Jacobs Sugarloaf track through to the Macquarie River, but if an absconder left the road and traveled through the backblocks of these five or six farms, the trip was reduced to four and a half miles, all of it out of sight.

<sup>59</sup> Statham, *The Tanner Letters*, pp.104-108. Viveash's constant patrolling of his farm on horseback and careful attention to supervising his workers made it much more difficult strangers to come onto his land.

<sup>60</sup> Op Cit., Somerset, Map No. 1, Compiled and drawn at the Survey Office Hobart, April 1902.

charges were withdrawn after each farmer appeared. They were discharged and ordered to pay costs.<sup>61</sup>

After this incident, all farmers in the area were placed on notice to be more vigilant about who their shepherds entertained or be publicly called to answer. Many were likely to have conveyed this message forcefully to their assigned servants.

By late June more information started to appear. William Hawes an assigned servant on the Bayles farm, gave up William Coe. Coe was a ticket of leave man from the district, who had escaped from custody the previous November while on a felony charge. Coe then gave up the hut keeper William Wates on the Rokeby farm, who in turn accused Coe of stealing a pair of trousers from him. Wates later withdrew this charge, but it suggests that Coe may have supported himself by stealing clothes and selling them to traveling hawkers. At the same time, a local emancipist, John Roberts, was given up by the free settler John Bayles, who accused him of stealing clothes and goods from his farm. Two local emancipists, John Bagles and Walter Hobson, also accused Roberts of stealing their clothes. These charges suggest that a well organized pattern of thieving helped support some absconders who were on the run in the district.<sup>62</sup>

Joseph Bayles, subsequently captured two absconders from the Westbury road party that he found on the Rokesby farm on 24 June. They had only been at large for three days and appeared to have traveled straight to the area.<sup>63</sup> Local farmers also started to investigate thefts more closely. John Hedlam responded to his humiliation in the local court by arriving home and immediately investigating more vigorously the theft of a 100 lb bag of flour from his stores the previous month. He charged three of his

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<sup>61</sup> LC 83/1 Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trials of Bassett Dixon, John Hedlam, George Wilson, James Mackersey, Peter Brewer, 2 June 1835.

<sup>62</sup> LC 83/1 Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, 22 June and 11 July 1835, Trials of John Roberts, stealing clothes and goods from John Bayles, then John Bagles and Walter Hobson.

<sup>63</sup> LC 83/1 Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, 27 June 1835, Trials of John Morgan and Thomas Whitaker.



assigned servants with the theft, claiming they took it from his stores and into the men's hut.<sup>64</sup>

As if to drive the point home, Whiteford also heard a case against another local farmer on 23 June. David Murray, owner of Gaddesden farm was frequently absent, tending to his business as a wine merchant in Launceston.<sup>65</sup> However, he was still responsible for the activities that took place on his property. Whiteford received information that Murray had been killing and selling meat without a license. Other respectable settlers had also been charged at different times with flouting this unpopular regulation, but with Murray absent there may have been a concern that his farm had become friendly to absconders and was supplying blackmarket meats to the hut keepers who were sheltering them.<sup>66</sup> Murray was called to appear before the magistrate, but the information against him was withdrawn on 30 June and the case was dismissed.

Whiteford had worked hard to choke off the trade in essential supplies. He had put the district's middle class farmers on notice that he expected them to be responsible for closely scrutinizing all the activities that took place on their farms. He had forced those masters, who like John Hedlam, were willing to accept small commercial losses as part of the free enterprise costs of their farms, to re-establish the penal nature of their control over their convict workers in place of the less formal traditional master and servant relationships that started to appear on some farms in the area.<sup>67</sup>

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<sup>64</sup> LC 83/1 Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, 27 June 1835, Trials of George Long and John Macnamara, , who were accused of stealing the flour; and Simon Glewis, the other occupant of the hut, who was accused of knowing about the theft and concealing the fact.

<sup>65</sup> *True Colonist*, 12/5/1837, David Murray was known as a wine merchant in Launceston. Gaddesden farm was renamed Quorn Hall by a later owner, and in 1835 was near Hezekial Harrison's farm on the Macquarie river, not far from the farms implicated in the harbouring cases.

<sup>66</sup> LC 83/1 Return of Cases Heard, Magistrate's Court, Campbell Town, 27 January 1835, AOT, Trial of Benjamin Horne, a local justice of the peace. Horne was charged with selling 52lb of mutton to John Dickenson, publican at the Robin Hood Inn at Ross, without having a licence to slaughter animals. The case was dismissed. Also: LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of David Murray, 23 June 1835.

<sup>67</sup> David Jones, *Crime, Protest, Community and Police in Nineteenth-century Britain*, London, Routledge & Kegan Paul, 1982, p.12. In the eighteenth century, English farm workers expected to be able to skim gleanings, fuel and other surplus produce from the farms on which they worked as part of a system of reciprocity between masters and servants, in addition to their wages. This was not

A few absconders, who were captured in the Jacobs Sugarloaf area, had been at large for several weeks. This raised the suspicion that some of them may have been given up by the hut keepers who had sheltered them only after their money ran out. James Edwards returned twice to this area. He was at large for five weeks before he was captured on 5 July on George Scott's farm on the Macquarie River near Ross. He escaped again from the Constitution Hill road party and was captured nearby on Mr Kermode's farm on suspicion of housebreaking after being free for about three weeks. Thomas East had been free for about six weeks before his capture on Joseph Hedlam's farm near Jacobs Sugarloaf in late June. John Macartney was caught after three weeks of freedom on Andrew Gatenby's farm on the Isis River.

The convict police, stationed at the Snake Banks police office on the Main Road north of Campbell Town, made many of their captures in the vicinity of their office or in Epping Forest. They almost always captured convicts from the Perth gang, the Westbury road party, the Launceston barracks and chain gang. Absconders, clothed in government slops, had few choices for evading the notice of the police unless they stayed off the Main Road and followed alongside it, hidden in the scrub, or moved southwards at night.<sup>68</sup> Even juveniles attempted to abscond, especially when assigned to remote farms. William Mason landed in September 1835 and absconded immediately after being assigned to a distant property on the South Esk River, and again three months later from the Perth road party where he had been next sent. His sentence was extended by twelve months and he was sent to Point Puer, a training station for juvenile convicts established across the bay from the Port Arthur penal settlement.<sup>69</sup>

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regarded as stealing. There is evidence that this was common in Van Diemen's Land too, at least on some well established and prosperous farms. Witnesses gave evidence to the Molesworth Committee that their convict workers had free access to the vegetable and fruit gardens in addition to their rations, and some masters provided farm eggs and milk to convict workers too. In a penal colony, the boundaries between traditional perks and pilfering could easily become blurred and could be manipulated by both workers and masters alike.

<sup>68</sup> LC 83/1 Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trials of Thomas Douglas & George Dumper, 29 September 1835; Henry Schofield was apprehended near twice near Snake Banks, 19 May 1835 and 3 June 1835; Saul Withers & John Baggerley, 24 June 1835; John Burr from the Launceston chain gang had been at large for 2 weeks, 14 October 1835.

<sup>69</sup> LC 83/1 Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of William Mason, juvenile, 17 September 1835 and 3 December 1835.

Surprisingly quite a few absconders were caught at Ross, either by the police, by the overseers of the Ross bridge gang or on the government farm.<sup>70</sup> One was taken by a soldier on duty in the town.<sup>71</sup> Although there was the disadvantage for absconders of a large police office and soldiers barracks situated in the town, there were plenty of emancipists around whom they could approach. However, there were many attractions in the village to entice them there, including local brothels, sly grog huts and the Robin Hood inn; a hostelry frequented illegally by many convicts from the Ross Bridge gang. Some may have hoped to blend in with the crowd of convicts in the Ross Bridge gang who worked in the village during the day. By comparison, few absconders were caught in Campbell Town.

Other absconders had pressing personal reasons for leaving their gangs. William Jones, the convict post messenger from St Pauls Plains was picked up in Ross by constable Newton. Jones stated he absconded because he couldn't support himself on the wages he received for his position as mailman. The Campbell Town bench was not sympathetic to this explanation and sentenced him to 50 lashes and sent him to a public works gang.<sup>72</sup>

Paul Peers had a more compelling reason for absconding from Notman's road party at Green Ponds and traveling up to Ross. He explained to the bench that he was there to recover £6/17/9 owed to him by William Rogers, the postmaster at Ross, for work done for him while Peers was a prisoner in the Ross Bridge gang.<sup>73</sup> These two wage related issues, also demonstrate the ways in which the assignment system channeled cash officially into serving convicts' hands by paying some convicts for their services and also enabled convicts working in gangs to gain outside paid employment in their free time. In this case, a member of the local administration, the postmaster, felt quite at liberty to employ a convict for cash in much the same way as local farmers, blacksmiths and builders paid ganged convicts for goods or services.

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<sup>70</sup> LC 83/1 Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of William Johnson, 5 March 1835; Paul Peers, 16 February 1835.

<sup>71</sup> LC 83/1 Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of Moses Shaw, 24 February 1835, apprehended by Private Connell of the 21<sup>st</sup> Fusiliers.

<sup>72</sup> LC 83/1 Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of William Jones, 27 July 1835.

<sup>73</sup> LC 83/1 Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of Paul Peers, 16 February 1835.

The township of Ross also provided many opportunities for petty thefts and for reselling stolen goods. Will Sawyer absconded from the Spring Hill Road party and had been successfully at large for five weeks before constable Holden apprehended him in Ross. He was remanded on suspicion of a number of felonies, none of which were listed in the charge.<sup>74</sup> Men, who had been on the run for several weeks, had to find ways of supporting themselves, when their cash ran out. However, absconders who tried thieving were at risk of being caught.<sup>75</sup> James Taylor and Abraham Powell, from the Oatlands public works gang, were apprehended after they stole clothes and other items from an emancipist draper in Ross. Police also charged Gilbert Dick, a ticket of leave man, with receiving the stolen goods.<sup>76</sup>

A few absconders managed to find refuge along the South Esk River by making their way east to Avoca, Fingal and St Pauls Plains. Perhaps many from Launceston, Perth and Westbury were taken by the police at the Snake Banks police office before they got onto the South Esk track. Perhaps the stern reputation of the local justice of the peace, Major William Gray, at St Pauls Plains, the additional police office at Avoca, and one or two small contingents of soldiers in the area were effective deterrents. The geography was more hostile too. Hills along either side of the South Esk valley were higher and more heavily wooded than elsewhere in the district and settlement had been more recent. As well, it was not certain that the local Aboriginal population on the north side of the river had been pacified.<sup>77</sup> The continued presence of small contingents of soldiers in the valley testified to the settlers' fears. Despite these disadvantages, a few absconders did make it through into the South Esk valley. One such was Henry Flack who had evaded the police for six months by traveling up the South Esk valley past Fingal to the Break o' Day Plains, where he was finally

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<sup>74</sup> LC 83/1 Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of William Sawyer, 21 September 1835.

<sup>75</sup> LC 83/1 Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of John Swan & William Watson, 26 October 1835 and 24 October 1835. Charged with stealing a pea jacket belonging to Michael Lackey. Watson was committed to stand trial at the Quarter Sessions, but the charge against Swan was dismissed. Appearance of James Edwards, 11 July 1835: at large for 5 weeks from Constitution Hill road party, charged with suspicion of housebreaking at Mr George Scott's farm. His 7 year sentence was extended by an additional 3 years.

<sup>76</sup> LC 83/1 Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of James Taylor, Abraham Powell, 20 February 1835 and Gilbert Dick, 21 February 1835. William Robertson, the draper, supplied work clothes and other items of apparel in Ross.

<sup>77</sup> Hansen David, *John Glover and the Colonial Picturesque*, Tasmania. 2003, pp. 102-103, 114. Glover, who lived on the Nile River, discusses encounters with members of local Aborigine groups from 1831 to 1833.

apprehended by two constables, after his traveling partner and fellow absconder told police about his destination.<sup>78</sup>

While most absconders were quickly apprehended, the more experienced convict absconders managed to stay at large for several weeks. In the Campbell Town district they either were brought in by farm servants after two or three weeks under the suspicion that their cash had run out, and they did a final deal with a hut keeper to share the reward of £2 for their capture. Or those less willing to return to their gang, tried to earn cash by stealing goods or stock and selling these to receivers. Depending on their success, they stayed at large for up to six months, but more generally, no longer than five weeks.

Another smaller group of longer term absconders were also captured in the district and these men used quite different strategies. They generally traveled alone and sought to integrate themselves into the community by passing themselves off as free emigrants or emancipists. They supported themselves through paid work and appeared to avoid local criminal networks. The bench book gives very few details about John Bruce, formerly of the Oatlands public works gang, who had been at large for about a year, since the annual muster in 1834, when he was captured in the district.<sup>79</sup> Likewise John Poole, formerly of the Launceston Barracks, had been at large for sixteen months before being taken by constables Holden and Inglebert on 19 October 1835, about twelve miles from Ross. He then attempted to escape from the police several times before being escorted out of the district to serve a sentence at Port Arthur.<sup>80</sup>

While we have no details about how either Bruce or Poole supported themselves during their periods of freedom, John Naldrett gave the magistrate a more detailed account of the two years he spent at large as an absconder. Naldrett had not been ganged, but had absconded from the service of a local magistrate, Richard Willis.

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<sup>78</sup> LC 83/1 Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of Henry Flack, 20 July 1835.

<sup>79</sup> LC 83/1 Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of John Bruce, 29 October 1835.

<sup>80</sup> LC 83/1 Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of John Poole, 21 October 1835.

Willis had charged him with an offence and Naldrett had received a flogging as punishment in the Campbell Town gaol. His experiences suggest it was sometimes easier than expected to use the main roads and not be picked up by the police. Naldrett was released from the gaol several days after being flogged and given a pass to return to Willis's farm on the Main Road north of Campbell Town. He returned there, collected his belongings, including clothes and his ten shillings cash and absconded that night traveling south for Hobart.

In Hobart, he immediately offered his services to a man he heard enquiring about a carter. He told the man he was a free man who had worked around Launceston and asked for ten shillings a week plus board. Five days after absconding from Willis's, Naldrett was settled on his employer's farm at New Norfolk in a new hut. He changed his name to Thomas Tickner and courted one of his employer's convict servants, Sara Mills. After about five months Tickner got another job as a general servant to a shop keeper in New Norfolk. Three months later he sent a memorial into the Convict Department requesting permission to marry Sara Mills. Tickner described himself as a free man arriving on the ship *Protector*.

Naldrett, as Tickner, was bold enough to get the Rev. Bedford to marry them at New Norfolk after the Convict Department gave its permission. Tickner claimed he was a widower at the time of his marriage. While free he had built up a credible profile of himself around New Norfolk and supported himself and his wife by successfully taking up several clearing leases, until arrested by two constables. By this time his wife had one baby who had died and was pregnant again.<sup>81</sup> Even though Naldrett had stayed away from the Campbell Town district during his period of freedom, there was always the risk that a former shipmate or workmate would recognize a fellow convict and give him up for the £2 reward. He was sentenced to a further twelve months with a road party.

Even successfully absconding from Van Diemen's Land did not always guarantee freedom. Charles Englebert, one of the police serving in the Campbell Town district

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<sup>81</sup> LC 83/1 Return of Cases Heard, Magistrate's Court, Campbell Town, AOT. Trial of John Naldrett, 18 May 1835 and 25 May 1835.

in 1835, had absconded from Hobart in March 1827 after having frequented the Ship Inn and perhaps arranged passage with some of the seamen drinking there. He subsequently traveled to Port Jackson on the cutter *Fanny*. Six months later he was apprehended in Sydney and returned to Hobart on board the *Emma Kemp*, from which he briefly absconded again before recapture. Although this earned him a sentence of six months in a chain gang, it did not prevent him later being employed in the convict police force.<sup>82</sup> Indeed, John Naldrett also chose to become a convict constable after serving his sentence in the road party.<sup>83</sup>

The trade with ganged absconders in the Campbell Town district illustrates how different the reality of the assignment system was from the picture that Arthur represented to the Colonial Office. He argued that road parties were the effective first level of a graded punishment system designed to persuade offenders to reform, but in fact, they were likely to have quite different effects on their inmates. Prisoners had to endure lice and scurvy, the general filth of huts and clothes, inadequate and unhealthy food and being forced to work beyond their strength, which all contributed to the “broken constitutions” of men who had served sentences in gangs.<sup>84</sup> The adverse psychological effects on these men were well known to contemporaries. One observer thought these punishments “deadened the human spirit” and that some men were “reduced to brute like apathy” when released.<sup>85</sup> A former magistrate felt that that “they become useless, and sink; that their physical force is gone by starvation, that their moral force is gone by the discipline, and that they become mere useless machines...”<sup>86</sup>

Even though the full extent of these consequences were probably not intended by the Hobart administration, they were a feasible cause of so many ganged men having to find ways of providing sufficient necessities for themselves to survive. Ganged men often arrived with cash or took whatever paid work they could find to provide food

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<sup>82</sup> CON 31, Conduct Registers, AOT, Charles Englebert, ship- *Sir Charles Forbes*, police number 159, AOT.

<sup>83</sup> CON 31, Conduct Registers, AOT, John Naldrett, ship- *Bussorah Merchant*.

<sup>84</sup> Stephen Wright, *Recollections of Van Diemen's Land*, pp. 39, 45. See also Hamish Maxwell – Stewart & James Bradley, ‘Crime and Health—An Introductory View’, in *Founders and Survivors: Australian Lifecourses in Historical Context*, pp.9-15, at [www.utas.edu.au/arts/conhealth/](http://www.utas.edu.au/arts/conhealth/).

<sup>85</sup> Ross, *Almanack for 1833*, pp. 22-25.

<sup>86</sup> Peter Murdoch, Molesworth Committee evidence, Vol.1, p. 124.

and clothes for themselves. They stole from farms, trapped bush food and negotiated easier jobs, such as hut keepers or night watchmen, if they could get them. While gangs were not necessarily conducive to reform, they were most effective in teaching hard lessons about personal survival. By comparison, the often rough and dirty shepherds' huts were enticing enough to cause many ganged men to run, even though they knew they would have to give themselves up when their cash or luck ran out.

But the absconders' trade also illustrates the loose control that the system exercised over convict men. Road gangs had a 24% absconding rate in the mid 1830s and beyond, because they were easy to escape from.<sup>87</sup> There could never be enough police, guards and soldiers to completely lock down the system, except in those exceptional locations such as chain gangs and penal stations. To a great extent the vast majority of convicts cooperated with the inefficient system of control by choosing to stay in private service or in road parties until they were released. For those convicts who were reckless or rejected this confinement, information about the back ways, the small bridle paths and the known safe huts provided an alternative way of enduring this misguided experiment in reforming them, by giving them occasional respite from the system amongst their own kind.

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<sup>87</sup> Linus Miller, notes of an Exile, pp. 292-293.



**Chapter 6: Inhabiting the Spaces In-between: The Ross Bridge gang and other government gangs in the Campbell Town Police District.**

The previous chapter argued that convicts in road parties took whatever opportunities they could to exert control over their lives as ganged men. They worked for cash, traded in goods and services within the gang, and absconded in relatively large numbers. Absconding linked them to the convict economy in rural districts. While the degree to which they were able to manipulate ganged life varied from gang to gang, the evidence suggests that convicts were not powerless to shape the circumstances in which they found themselves.

In this chapter, the theme of agency over work and integration into the community is pursued further through an examination of the Ross Bridge Gang. This chapter will look at how an inefficient administration failed to provide the gang with the skilled leadership that was necessary to start the bridge project. This gave the men the opportunity to establish a positive working relationship with local emancipist tradesmen and settlers who wanted to purchase goods and services. The chapter will argue that strong market forces drove these interactions as settlers started to build more permanent houses and farm buildings to replace their earlier split log huts and barns. Equally important, however, was an imported class culture that shaped relationships in the district. A shared understanding of traditional class interactions transcended the recent and artificial creation of a convict class that had been imposed on island society in place of a free working class.

The chapter will look closely at a supply incident, typical of many work interactions between gang members, emancipist tradesmen and settlers. It will demonstrate the manner in which the local administration tried to work against the dominant cultural and social understandings that had been reestablished in Ross between the gang and the town, and close down private trading between them.

The chapter will also examine the way in which the type of tribunal that heard cases against ganged men may have affected the types of punishments they received. Police magistrate John Whitefoord provided an open civil court system that heard

charges against the Ross Bridge ganged men and several other small local groups of ganged convicts. His approach was different from the closed hearings conducted by military magistrates who were also gang superintendents. Whitefoord's judgments provide an opportunity to examine how a civilian magistrate attempted to impose the stricter discipline that the administration believed was a necessary feature of gang justice.

Ross had been an insignificant location on the Main Road to Launceston before the first thirty or so settlers arrived in 1823 to take up their land grants. Named by Governor Macquarie during his visit to Van Diemen's Land in 1821, Ross was the location of both the ford across the Macquarie River and the Government Farm of 30,000 acres where working bullocks and milking cows were bred. Since 1812 a military outpost had been stationed there to protect travelers against attacks from Aborigines and bushrangers and Stocker's inn provided accommodation to travelers near the ford.

By 1824 the first bridge had replaced the ford. It was described as having fourteen arches and being about 250 feet in length. It was "constructed of uncemented stone buttresses, upon which are laid rough logs of wood and these are covered with earth and gravel. Within eighteen months of the construction of the bridge, a small settlement had sprung up around it.<sup>1</sup> As floods washed away the logs and the surface soil, and the remaining bridge timbers decayed, the bridge proved increasingly inadequate.

The early history of the attempt to build a new bridge at Ross demonstrates the lackluster manner with which the project was organized by the Roads and Bridges Department.<sup>2</sup> In 1829 Lieutenant Vachell arrived with six convicts to start the bridge construction. Little work was done on the bridge as Vachell did not accept that it was

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<sup>1</sup> Edward Curr, Van Diemen's Land company, quoted in K. R. von Stieglitz, *A Short History of Ross with some Tales of the Pioneers*, privately printed 1949, p. 9.

<sup>2</sup> In 1827 Arthur divided the Engineers Department into two separate departments: the Roads and Bridges Department; and the Engineer and Architects Department; which in 1835 was renamed the Public Works Department. Entries in the *Blue Book* of 1833 shows that the Roads and Bridges Department appointed the supervisors for the Ross project. See CSO 50/8, *Blue Book* 1833, ATO, pp.105-107.

his duty to supervise convict workmen, and he had no foreman with the experience to start the project. Instead, his men effectively lived as free men: they built themselves a barracks, hired themselves out to the local settlers for work, drank in the pubs at night and one even got married.<sup>3</sup>

After Vachell's departure, Mr. Foord from Bothwell arrived in May 1831 with a team of forty convicts, but work was delayed on the bridge for another eighteen months because no experienced stonemason-foreman had been appointed. However, the convicts were not idle in this period. By the end of 1833, the convict gang had erected a blacksmith's shop, a military guardhouse and stables, a commissary store, a set of stables for the commissariat clerk, George Cock, four brick barracks for themselves and a brick overseer's hut.<sup>4</sup> Foord also permitted his men to seek work around the district and appeared to coordinate the production of building materials and the increasingly complex building jobs the convicts started for local settlers.<sup>5</sup> Stone was quarried and bricks were burned and sold to many prominent local settlers, including William Kermode of Mona Vale farm, Samuel Hill, a local Justice of the Peace, and John Dickenson, the publican. Foord built brick kilns at Somercotes and Ashby farms, where he also located a lime kiln.<sup>6</sup> As well as the brick and lime kiln workers, at least two other groups of gang members established work camps outside the barracks and village. A charcoal burners gang was located in the Eastern Tiers outside Ross with a men's hut attached where they stayed overnight while firing the kilns.<sup>7</sup> There was also a government sawpit and carpenters camp in the hills. In the absence of a qualified stonemason, for the first four years the gang completed what they could for the government. The rest of their time, they worked to supply the private market demands for building materials and built houses and farm buildings for the settlers.

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<sup>3</sup> L. Greener & N. Laird *Ross Bridge and the Sculpture of Daniel Herbert*, Hobart, Fullers Bookshop, 1971, pp. 4-5.

<sup>4</sup> PWD 266/1690, 290/1404, AOT, Maps circa 1833, Ross Series.

<sup>5</sup> Maureen Byrne, *Ross Bridge Tasmania*, Australian Society for Historical Archaeology, Department of Archaeology, Sydney University, 1976, p. 2. Foord was dismissed in September 1832 after it became clear that little was happening on the bridge work, even though no experienced supervisors or workmen had been appointed. Hobart was also dissatisfied with stories of the gang's lifestyle and that they worked for settlers.

<sup>6</sup> *Ibid.*, p. 21.

<sup>7</sup> LC 83/1, Return of Cases Heard, Magistrate's court, Campbell Town, 1835, AOT, Trial of Arthur Thredder, 5 October 1835. See the details of the clerk's report for insight into how the charcoal burners' gang lived.

It was significant that the convicts' barracks was located on a site half way between the sandstone quarry and the new site for the bridge.<sup>8</sup> Their barracks was on the town perimeter between Church and Bond Streets, giving the convicts excellent access to the bridge site, the quarry and the village. This created a special relationship with the village. The convicts, including the skilled tradesmen amongst them, were very accessible to the settlers while the services of the village also became accessible to the convicts in the gang. While many other bridge and road parties were generally some distance from the nearest village, the Ross Bridge gang was physically integrated within Ross and as a result overseers, tradesmen and convicts became quickly known around the village.

A crude separation was attempted by placing the military establishment and its buildings in between the village and the convict barracks. The new parade ground was marked out beside the location of the new bridge site, and the soldiers' barracks, officers' mess and stables were built nearby.<sup>9</sup> Until the end of 1834 this separation was minimal. As the barracks was not fenced in, the convicts appeared to have relatively easy access to the local pubs and were around the village and on other work sites during and after working hours. Even at night the convicts' barracks was far from secure.

The bridge work was finally commenced when four significant appointments were made between March and November 1833. Three of these finally provided professional leadership to the party of fifty convict workers. James Colbeck a convict and a master stone mason with experience in construction, was appointed to train and lead the stonemasons. Shadrech Purton a free settler was appointed as overseer by John Lee Archer with George Cock, the former Ross commissariat clerk, as his

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<sup>8</sup> E. Cassella, '“A Large and Efficient Establishment”: Preliminary report on the fieldwork at the Ross Female Factory', *Australasian Historical Archaeology*, 15: pp.79-89. See also *Ross Female Factory Archaeological Survey*, Tasmania, Parks & Wildlife Service, 1998. Report of the excavations conducted by Eleanor Casella, Department of Anthropology, UC Berkley, 1995. This site of the Ross Bridge Gangs barracks was later developed into a women's prison during the early Probation Period. See also *Ross Female Factory*, Tasmania, Parks & Wildlife Service, circa 1998. Pamphlet on the historical transformation of the Ross Bridge male convicts' barracks into the Female Factory from 1847.

<sup>9</sup> PWD 266 / 1689 and 290/1403., 'The Military Quarters at Ross', Maps, circa 1833, Ross Series, AOT.

deputy.<sup>10</sup> In November, Charles Atkinson a young English architect, was appointed by Governor Arthur to oversee the project.<sup>11</sup>

It was difficult for the first contingent of six convict police who arrived in Ross in midsummer 1833, to interrupt the gang's pattern of integration into the commercial and social life of the village and restrict them to barracks and government work. The local justices of the peace, Samuel Hill, Ben Horne and John Leake, accepted that private contracting should cease, but would not support the prosecution of settlers who had used the services of the gang during the period when no professional leadership had been provided by the Department of Public Works. However, they allowed one prosecution against John Dickenson the publican, who was charged with buying materials for his house from gang members. He admitted to using government timber in the construction of his house but argued it was the practice of the gang to lend materials to local settlers who would replace them later. The case against him was withdrawn. Two convict clerks were charged with organizing the making and selling of bricks from the two brick kilns at the Somercotes and Ashby farms but they claimed they did so in their spare time. They were admonished and excused by the justices of the peace.<sup>12</sup> Because George Cock, one of the commissariat clerks, was later promoted to assistant overseer, it was always likely that some of the former arrangements with private settlers would continue.

By 1833, the gang had established traditions of living and working in Ross over the previous four years. During this period, the gang members had started to function as a cohesive private construction work group, rather than a group of convicts in government employment.<sup>13</sup> This did not appear to be a form of protest against their sentences or their working conditions. They were not contesting the system, appealing for fair treatment, withdrawing their labour or sabotaging tools or government property.<sup>14</sup> Instead, they evolved a pragmatic working relationship with

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<sup>10</sup> *Australian Dictionary of Biography*, op. cit., Vol. 1, 1788-1850, pp. 23-24. John Lee Archer was appointed Civil Engineer and Architect for Van Diemen's Land between 1826-1837 and reputedly designed the Ross Bridge.

<sup>11</sup> Maureen Byrne, *Ross Bridge Tasmania*, p. 3.

<sup>12</sup> Greener & Laird, *Ross Bridge and the Sculpture of Daniel Herbert*, pp. 10 – 12.

<sup>13</sup> *Ibid*, pp. 4-12.

<sup>14</sup> Alan Atkinson, 'Four patterns of convict protest', *Pastich 1: Reflections on Nineteenth Century Australia*, Russell Penny & White Richard editors, St Leonards NSW, Allen & Unwin, , 1994, *passim*.

the settlers, which included former gang members, when they were freed or paroled. This type of cohesive working relationship between settlers, emancipists and convicts was unusual in Van Diemen's Land, but not in the colony of New South Wales. The Sydney Lumber Yard was a government work site employing convicts. It also operated in the 1830s as a manufacturing site that supplied the local building industry with both simple and finished building products. Under clear guidelines, convict tradesmen at the lumber yard were permitted to take apprentices and work off site for themselves for two days a week. This formalization of working arrangements, enabled a high degree of productivity to be maintained for the government's building needs, but also supplied the free market's strong demand for building products. Convict tradesmen, who worked under these guidelines, ran their own cash businesses part-time, while still employed by the government.<sup>15</sup>

In Ross, substantial market pressure existed for building supplies, but no formal arrangement was agreed by the local or Hobart authorities. Instead the emancipist and gang tradesmen organized their own model for satisfying the local demand. Left unregulated, the result was the development of a clandestine economy, which left both the local emancipists and the gang tradesmen vulnerable to prosecution under the convict regulations. Its other effect was to continue to slow down the gang work on the bridge as no clearly delineated quantity of government work had been negotiated. Although the private work of the gang was reduced between 1833 and 1835, it was never completely stopped: there was still a strong market for building materials and even officials like the local postmaster in Ross continued to employ gang members.<sup>16</sup> By 1835, it became apparent that the continued slow progress of the bridge was partly because many gang members were still working for themselves. The Public Works Department had reputedly spent, by then, almost £2500 on the bridge and could see very little progress despite this considerable outlay.<sup>17</sup> The inefficiency of the Roads and Bridges Department in organizing the building work over the first six years of the project was in stark contrast with its counterpart in New

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<sup>15</sup> W. M. Robbins, 'The Lumber Yards: a Case Study in Management of Convict Labour 1788 – 1832,' *Labour History*, No. 79, November 2000, pp. 141 – 161

<sup>16</sup> LC 83/1, Return of Cases Heard, Magistrate's Court Campbell Town, AOT, Trial of Paul Peers, 16 February 1835.

<sup>17</sup> Stieglitz, *A Short History of Ross*, p.11.

South Wales. From 1828 the new Surveyor-General Edmond Lockyer, had remodeled gang structure, allocating set numbers of men and overseers to each gang, defining their conditions and requiring weekly and monthly reports on both gang outputs and behavior. Karskens attributes the quality of the work completed by gangs making the Great North Road, to the efficient distribution of manpower and the training received by formerly unskilled convicts.<sup>18</sup>

One very public case in May 1835 demonstrated that ganged convicts were still supplying the private market. District constable Edward Freestun received information about a deal being made between several bridge stonemasons and Mrs Abbott of Ashby farm, the widow of a former deputy-judge-advocate, and owner of the farm, where the convicts had managed the successful brick and lime kilns just two years earlier.<sup>19</sup>

The Abbott case revealed the complex layers of cooperation that existed between the ganged men, private settlers and emancipists. John Abbott, acting for his mother, did not approach the gang stone cutters directly but gave instructions to Wooley a convict bricklayer on temporary loan from the Government, to purchase stone for a building that was being erected at Ashby farm. Wooley met the stonemasons at their hut and got an agreed price and over the next two weeks, three convict stone masons prepared the stones. One of the masons got leave from the overseer to use two government hands to load one of Mrs Abbott's farm carts when it came to the quarry to pick up the order. The convicts had arranged for a local emancipist stonemason to say the stone had been bought from him if the cart was stopped after it left the quarry. The informer was William Cartwright, the storeman for the gang who contacted the police on the morning of the pick up.<sup>20</sup> It is unclear why Cartwright turned informer on his fellow gang members but it is possible that the police had

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<sup>18</sup> Grace Karskens, 'Defiance, Deference and Diligence: Three Views of Convicts in New South Wales Road Gangs', *Australasian Historical Archaeology*, 4: 1986, pp. 17–28. Iron gangs, road parties and bridge parties, all with specific skills, contributed to particular tasks along the road.

<sup>19</sup> *Australian Dictionary of Biography*, Vol.1, p. 2. Major Edward Abbott, former New South Wales Corps from 1790 to 1796, deputy-judge-advocate in VDL, large land holder.

<sup>20</sup> LC 83/1, Return of Cases Heard, Magistrate's court, Campbell Town, 1835, AOT, Trials of James Newton, John Welsh and John Winks, 30 May 1835.

some evidence of Cartwright mismanaging the gang's stores for his own profit, a common practice, and used this to force him to cooperate with them.

It is not clear that the stone bought from the bridge gang was necessarily cheaper than what was charged by the local emancipist stone masons. The two groups were not in open competition with each other on pricing issues. Instead, deals appear to have been made between gang members and some local emancipist stone masons to share parts of the work and the profits.<sup>21</sup> The three bridge stonemasons paid the gang quarrymen nine pence a piece for the rough cut stone and they charged the Abbots two shillings and three pence for each block after it was dressed. Some larger pieces of dressed stone such as door steps, could command up to ten shillings a piece. The three gang stone masons at one stage offered part of the job to Edward Hulley an emancipist stone mason, who had recently been discharged from the bridge gang when his sentence had expired. He declined it claiming that the price at which the gang stone masons offered it to him was too low. They had probably offered to split part of the work and their contracted price with him in order to give credence to their plan to allegedly source the job to him in case they were caught. Even when he declined the job they asked him to agree to say he provided the stone if he was asked. He later reconsidered this and denied to the police he had produced or sold the stone.<sup>22</sup> This case demonstrates the integration of the work of the government and free tradesmen within Ross to cooperatively produce goods that were in great demand by settlers. It illustrates the way working class men normalized their working relationships if they could and ignored the increasingly artificial commercial distinctions between free and convict tradesmen in order to service a market.

A lot of ripples spread out round these incidents. May 1835 saw the biggest official effort to stop gang members working for the settlers. Earlier in May District Constable Freestun had a run in with some of the Ross Bridge carpenters who became aware that they were under scrutiny. Eight convicts worked at the government carpenters camp in the Eastern Tiers. Their isolation enabled them to

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<sup>21</sup> LC 83/1, Return of Cases Heard, Magistrate's court, Campbell Town, 1835, AOT, Trials of William Preston and James Newton, 16 April 1835.

<sup>22</sup> LC 83/1, Return of Cases Heard, Magistrate's court, Campbell Town, 1835, AOT, Trials of James Newton, John Walsh and John Winks, 30 May 1835.



enjoy a reasonable amount of autonomy and less supervision than the men who resided in the barracks at Ross. On Friday 8<sup>th</sup> May, two of the carpenters named Gazely and Jepson approached and threatened District Constable Freestun in Ross. Jepson “violently assaulted Freestun” and later the same night three other convict carpenters got drunk and disorderly at Dickenson’s Robin Hood Inn. Two of them returned the following Friday night to Dickenson’s and were charged again with being drunk and disorderly.<sup>23</sup> No charges of working for themselves were laid against any of the five but Jepson got 50 lashes for the assault and Gazely was sentenced to seven days in the solitary cell on bread and water.<sup>24</sup> Dickenson was charged with breaching the Publican’s Act by serving prisoners and fined £5 with costs.<sup>25</sup>

Emancipist tradesmen also became the target of police interest. John Gregory was a hard drinking and fighting emancipist stonemason who frequently employed some of the Bridge stoneworkers. Two nights after the altercation with the carpenters’ gang Freestun was called to Gregory’s house where one of Gregory’s assigned servants had assaulted the stonemason’s wife. Gregory was out at the time of the assault but returned to find Freestun and several constables taking two of his assigned men to the watch house. He followed and attacked the constables while trying to free his men. This incident started a series of charges against Gregory as police believed that if they broke Gregory’s hold on gang labour, they would discourage others as well. Over the following few weeks Gregory was charged and appeared nine times before the local bench. The charges included being drunk and disorderly, assaulting several people involved in the trafficking incidents, and employing stonemasons from the Ross Bridge gang. This wore away Gregory’s independence and ability to pay the

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<sup>23</sup> LC 83/1, Return of Cases Heard, Magistrate’s court, Campbell Town, 1835, AOT, Trials of Thomas Lewis on 11 May 1835 and 19 May 1835. Lewis was ordered 20 lashes for the first offence and 50 lashes for the second offence. Trial of Thomas Spencer, 11 May 1835- Spencer was severely admonished for his first offence. Trials of Richard Copperwhite, 11 May 1835 and 19 May 1835; Copperwhite was ordered 20 lashes for the first offence and 50 lashes for the second offence.

<sup>24</sup> LC 83/1, Return of Cases Heard, Magistrate’s court, Campbell Town, 1835, AOT, Trial of Alfred Gazely, 8 May 1835; trial of Charles Jepson, 8 May 1835. Jepson’s 50 lashes were commuted to 7 days in the solitary cell, when the medical officer testified he was too ill to be subjected to a whipping.

<sup>25</sup> LC 83/1, Return of Cases Heard, Magistrate’s court, Campbell Town, 1835, AOT, Trial of John Dickenson, licensee of the Robin Hood Inn, Ross, 19 May 1835. It was customary to charge the licensee of the public house where a convict had been drinking, if that convict was arrested when drunk.

finances and sureties that were required for him to keep the peace. The court made him pay for the medical expenses and costs for assaulting a constable. He was fined £10 for employing other unnamed gang convicts and a further £10 for employing William Young—a stonemason from the Bridge gang. Gregory paid a further £10 surety for abusive and threatening behavior to William Cartwright, the store man informer from the gang. He had to call on two other emancipists to assist with additional sureties in late June and early July. Edward Hulley a recently released gang stonemason, put up a £10 surety for him and Thomas Tucker, a client and local emancipist who had set himself up as a publican, paid the bond binding Gregory to keep the peace for three months. In addition, Prudeax Watson licensee of the Caledonian Inn in Campbell Town, put up another £30 surety for Gregory to keep the peace after he was charged with assaulting District Constable Freestun.<sup>26</sup> William Speed, the other emancipist stone mason who had trafficked in stone with the gang, was also charged by Freestun with employing a gang member to make chisels—a token charge that was dismissed by Whitefoord.<sup>27</sup>

In the aftermath of the Abbott and Gregory cases the bridge gang was placed under increased surveillance. Captain William Turner arrived in early June to take charge of the gang from Superintendent Atkinson who had been dismissed. The three quarrymen who cut the rough blocks were charged with working for themselves and given sentences of 20 to 50 lashes.<sup>28</sup> Several gang members who had threatened an overseer or behaved in a disorderly way in the wake of the charges, were either flogged or given time in solitary confinement.<sup>29</sup> The three gang stonemasons who organized the Abbotts' job, were ordered to work in chains for 2 to 3 months.<sup>30</sup>

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<sup>26</sup> LC 83/1, Return of Cases Heard, Magistrate's court, Campbell Town, 1835, AOT, Trials of John Gregory on 11 May 1835, 12 May 1835, 26 May 1835, 5 June 1835, 9 June 1835, 10 June 1835, 18 June 1835, 3 July 1835.

<sup>27</sup> LC 83/1, Return of Cases Heard, Magistrate's court, Campbell Town, 1835, AOT, Trial of William Speed, 23 June 1835.

<sup>28</sup> LC 83/1, Return of Cases Heard, Magistrate's court, Campbell Town, 1835, AOT, Trials of James Merrett, Christopher Bassett and Richard Davis, 20 May 1835. Merrett got an additional 50 lashes for absenting himself from the barracks without leave on 12 June 1835.

<sup>29</sup> LC 83/1, Return of Cases Heard, Magistrate's court, Campbell Town, 1835, AOT, Trials of John Newin and George Kenny on 20 May 1835.

<sup>30</sup> LC 83/1, Return of Cases Heard, Magistrate's court, Campbell Town, 1835, AOT, Trials of James Newton, John Walsh and John Winks, 30 May 1835.

But the emancipists and gang members took their revenge on at least three of those who prosecuted or informed on their colleagues. William Cartwright, the gang's storeman who informed on the stone masons, was not rewarded for assisting the police. Instead, Superintendent Turner demoted him for not informing him sooner of the illegal trafficking. The stone masons got their revenge a month later when one of them complained to the superintendent about Cartwright's drunken behavior. John Kenmore told the magistrate that Cartwright turned up at his hut "half tipsy" on the Saturday night and told him he had been stripped of his separate quarters and had to move in with Kenmore. Cartwright left telling him he was going to get the irons struck off one of the stonemasons who was in chains. A little while later "he then returned to my hut and said he would have it flagged, that the sandy floor did not suit him". Cartwright got twelve lashes for this behavior.<sup>31</sup>

Joseph Boden was also ostracized by other gang members for being an informer. He absconded from the gang and gave himself up in Campbell Town, telling the magistrate he was afraid to return to the gang.<sup>32</sup> Even District Constable Edward Freestun who had been so vigorous in his pursuit of the traffickers, was paid back. Not only did Freestun take a beating from John Gregory but he was charged with feloniously embezzling five window sashes, the property of persons unknown but most likely the property of Mrs. Garrett. (The words Mrs. Garrett were struck out of the clerk's notes.)<sup>33</sup> The windows were found in his possession and he was committed to stand trial at the following Quarter Sessions Court. Very probably the window frames were planted on his property by persons unknown. The case against him was dismissed once the Quarter Sessions sat but Freestun chose not to return to duty with the Van Diemen's Land police and left for the Port Phillip District.<sup>34</sup>

It would be a mistake to believe that the complex series of events of May to July 1835 could stop the free and convict tradesmen of Ross, however, from continuing

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<sup>31</sup> LC 83/1, Return of Cases Heard, Magistrate's court, Campbell Town, 1835, AOT, Trial of William Cartwright, 22 June 1835.

<sup>32</sup> LC 83/1, Return of Cases Heard, Magistrate's court, Campbell Town, 1835, AOT, Trial of Joseph Boden, 29 July 1835.

<sup>33</sup> LC 83/1, Return of Cases Heard, Magistrate's court, Campbell Town, 1835, AOT, Trial of Edward Freestun, 18 and 20 June 1835.

<sup>34</sup> Freestun David, 'The Brothers Freestun, Why were we Policemen?', *Tasmanian Ancestry*, March 1997, pp. 230-232.

their private working relationships to supply local market demands. The settler and convict economies had become too interdependent to be easily separated and private demand was likely to be rationally supplied, regardless of convict department regulations.

By October 1835 another cooperative trading venture between gang members and ticket of leave men in Ross was exposed. Two bridge gang convicts from the charcoal burners' gang in the Eastern Tiers were caught selling charcoal, some of which they produced in their spare time, the rest they took from the gang's general supply. They were assisted by William Nailor, otherwise known as "Black Bill", a ticket of leave man who lived nearby on the tier, in a hut he shared with his emancipist employer, Murdoch.<sup>35</sup> They supplied charcoal to John Ellis a local ticket of leave blacksmith in Ross, also a former bridge gang member. Nailor acted as the 'legitimate seller' and Murdoch covered for Nailor by employing him to mind his bullocks. Ellis used one of John Gregory's assigned men to cart the charcoal for him in the stone mason's cart.<sup>36</sup> It's not clear who the informer was, although two other charcoal burners gave evidence against their co-workers. In this manufacturing and selling ring, it is clear that a reasonable degree of cooperation and trust existed between some current and former gang members and that they acted cooperatively to supply a local demand for charcoal. Far from waiting to be given privileges by overseers or employers, small clusters of serving and former convicts continued to work together in commercial ventures. The force of the free market drove the arrangements that freed, ticket of leave and serving convicts made with each other. The convicts' need for cash was the other significant motivation. Cash supplied many of the small comforts they needed while they were still under sentence. Those who were caught were punished and while this may have stopped individuals for a time, the trend would continue, as opportunities and markets continued to arise and provide a chance for work and profit. Although this system was particularly well developed around Ross, it is probable that similar arrangements existed in other parts of Van Diemen's Land wherever supply opportunities arose and wherever working

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<sup>35</sup> The appellation "Black Bill" identifies Nailor as a probable Afro-Caribbean convict & former slave released in England.

<sup>36</sup> LC 83/1, Return of Cases Heard, Magistrate's court, Campbell Town, 1835, AOT, Trials of Arthur Thredder, John Curtis, John Ellis and William Nailor, 5 October 1835.

class convicts and middle class settlers resumed their traditional patterns of economic and social exchange, ignoring the impositions of the convict system.

Even though cases against Ross Bridge ganged convicts who engaged in private work occupied a large slice of police magistrate Whitefoord's time in 1835, other charges against them were minimal. For the first half of 1835 all charges against the gang members were heard publicly in the local magistrate's court, instead of *in camera* by the gang superintendent. This provides an opportunity to look at the general behavior of the Ross Bridge ganged men as workers and as members of the Ross community.

Despite the gang's barracks being on the edge of the village, very few gang members were charged with burglary or other misdemeanors against the general population of Ross. George Kenny was found trespassing on land that was formerly the government farm just east of the village, although the charge doesn't suggest why he was there.<sup>37</sup> Only three men were implicated as potential robbers but as there was no evidence that they were on their way to commit robberies, a lesser charge was laid of "escaping from the barracks at night under suspicious circumstances". According to evidence provided by the gang overseers, security was taken seriously, particularly after the arrival of Captain Turner as superintendent and the overseers had been tasked with keeping a lookout for three weeks in order to catch the suspects.

Overseer Colbeck told the magistrate that after they mustered the men at 5.30 on Saturday evening, the three overseers each took an evening watch. "Between 1 and 3 o'clock on the following morning as the moon began to drop down, the prisoner Howe got over the wall and went under Mr. Cock's (the assistant overseer) fence in the shade as if for concealment". Howe remained there without moving for another half hour waiting for a companion. "About half an hour afterward another man attempted to get over the wall but he saw us and went back again. These ropes or nettles were taken out of the prisoner's pocket." The three civilian magistrates found only Howe guilty, even though the overseers had their suspicions about who the

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<sup>37</sup> LC 83/1, Return of Cases Heard, Magistrate's court, Campbell Town, 1835, AOT, Trial of George Kenny, Arab 2, 21 March 1835.

other man was. Howe didn't implicate anyone else and was sentenced to eighteen months in a chain gang. Two others were charged with being accomplices but were acquitted, as the magistrates refused to convict on a mere suspicion of a misdemeanor, although one was sentenced to be removed from the Ross Bridge gang.<sup>38</sup>

The only other general charges laid against bridge gang men were minor. One was caught trying to milk the postmaster's goat and a convict was found with a quantity of fencing wire in his possession, presumed to have been stolen from neighbors' fences.<sup>39</sup> The lack of charges against bridge gang members for misdemeanors against the village residents, suggest that unlike some larger gangs, the Ross bridge gang may have maintained more cordial relationships with the local free population. Because so many were able to work for cash, this may have reduced the need to steal from the town and may have achieved a degree of integration between gang and village that was markedly more cordial than in some other parts of the island.<sup>40</sup>

Good relationships with local businesses could create tensions in other directions though. In 1834 a gang member reported seeing three convicts in the barracks with a dead sheep and another man going into Ross the next day with a bag of what may have been sheep meat over his shoulder. A month later a Shadrack Perton, a free settler saw James Hogg one of the convicts previously involved, driving some sheep to the river then falling on one and killing it. He reported this to both an overseer and the gang superintendent. When charged, Hogg exposed the sheep meat ring of five gang members and an overseer, claiming they had killed around 60 sheep this way and sold most of the meat in Ross.<sup>41</sup> Outraged settlers held two public meetings

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<sup>38</sup> LC 83/1, Return of Cases Heard, Magistrate's court, Campbell Town, 1835, AOT, Trials of James Howe, George Harris and William Turner, 7 July 1835. The police magistrate a local justice and the gang superintendent sat to hear these charges.

<sup>39</sup> LC 83/1, Return of Cases Heard, Magistrate's court, Campbell Town, 1835, AOT. Trial of Harrison Colville on 27 April 1835. Trial of Henry Stewart, 20 May 1835.

<sup>40</sup> LC 83/1, Return of Cases Heard, Magistrate's court, Campbell Town, 1835, AOT, Trial of Joseph Crawford, 23 January 1835. As well as the services and goods offered by tradesmen such as stone masons, carpenters and charcoal burners to village residents and settlers, Crawford was caught making a quantity of shoes, presumably for sale. Others were caught with goods which were not specified, in their possession and which may have been destined for trading.

<sup>41</sup> Katie Febey, 'Who'll come a Walzing Matilda with me?' *Stock Theft and Colonial Relations in Van Diemen's Land*, Thesis, Bachelor of Arts with Honours in History, School of History and Classics, University of Tasmania, 2002, p. 38.

demanding action from the administration and one result was that for the first time a fence was erected around the gang barracks to confine the men at night.

Hindmarsh has argued that drinking was one of the more visible convict leisure pursuits and a symbol of their determination to maintain traditional practices and exercise control over their own time.<sup>42</sup> Despite the greater difficulty that ganged men had in obtaining liquor, the Ross gang had a long history of drinking in the village going back as far as 1827, as much of the money to spend came from trafficking in building materials with settlers. One particular tavern, Dickenson's Robin Hood inn at the far end of the village was generally held to be the convicts' pub—although most of its business was done with emancipists and ticket of leave men, while the soldiers and some settlers drank at the Man of Ross. The prohibition against convicts drinking in public houses was more likely to be broken in Ross. Dickenson was charged with the largest number of breaches of the licensing act of all the publicans in the Campbell Town police district and William Sadler licensee of the Man of Ross, came close behind him.<sup>43</sup>

However, by mid 1835 gang members were more closely supervised and only two gang members were found drinking in local pubs.<sup>44</sup> Others were found drunk and charged but not actually caught in the local pub. Most of these offences were clustered around specific dates in May during the period when charges were laid against gang members caught trafficking. Many of the men on charges went out and got drunk with their mates. It is also probable that the long standing commercial relationship between the local publican, John Dickenson, and gang members enabled them to be served at the back of his pub whenever they wanted to buy liquor and that some gang members continued to have the opportunity to be in the village and drink discreetly without being caught. However, there is some evidence that this too may have been reduced during the year. Ross gang members sent a juvenile to buy liquor

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<sup>42</sup> Bruce Hindmarsh, *Beer and Fighting*, pp. 3-4.

<sup>43</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT. Both Dickenson and Sadler had 10 charges each for the year of breaching either the licensing or harboring acts. Dickenson, however, had an additional large group of charges associated with the Christmas Day affray at the inn, which had involved gang members, local emancipists and ticket of leave men.

<sup>44</sup> LC 83/1, Return of Cases Heard, Magistrate's court, Campbell Town, 1835, AOT, Trials of Richard Bennett and three others on 26 December 1834.

for them from the pub instead of fetching it themselves in April.<sup>45</sup> Pressure had been steadily applied on the gang since mid 1834 when a perimeter fence was erected round their barracks which made it more difficult for them to slip away at night. It is also likely that more pressure against drinking was applied by the new superintendent of the gang, Captain Turner. After his arrival in mid 1835, Turner heard most disciplinary charges against the gang members *in camera* and details of the offences were no longer entered into the Campbell Town bench book.

Whatever the standard drinking practice for the gang was, however, Christmas Day appears to have been an exception. It had been traditional for gang members to gather at Dickenson's pub on December 25<sup>th</sup> and drink openly in the tap room. The Christmas of 1833 was the last time this occurred without an official challenge.

In 1834 the convict constables were in the village and were ordered by district constable Freestun to remove the men from Dickenson's on Christmas day. Gang members threw Freestun and the three constables out of the pub and continued drinking. A group of soldiers led by Sergeant Pat Carmody was also unsuccessful in removing the men as was Benjamin Horne the local magistrate, whom they told to go home and finish his Christmas goose.<sup>46</sup> Atkinson finally arrived and ordered his men peaceably back to their barracks, as he had the previous year when he had described them as "tipsy but peaceable".<sup>47</sup>

Christmas day 1835 was once again celebrated at Dickenson's by drinking and fighting.<sup>48</sup> The magistrate's court records provide greater evidence that this was a general working class celebration. Emancipists, ticket of leave men and assigned convicts from the nearby farms all participated in the revelries although the men from the Ross Gang were to the fore.

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<sup>45</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, ATO, Trial of Edward Burns, 11 April 1835, ATO.

<sup>46</sup> Freestun, David, 'The Brothers Freestun', *TA*, p. 231.

<sup>47</sup> Greener & Laird, *Ross Bridge and the Sculpture of Daniel Herbert*, p.12.

<sup>48</sup> LC 83/1, Return of Cases Heard, Magistrate's court, Campbell Town, 1835, AOT, Trials of Richard Beckett and George Harwood on 26 December 1835 and Edward Westbury and Charles Pearts on 29 December 1835. A larger selection of men also charged with riot at Dickenson's pub, are found on these two dates in the bench book.



During the day, soldiers were called out to try and assist the police keep order. Private Kelly recalled that: "I was out under my commanding officers orders yesterday at Ross in quelling some disturbances at Ross. I was stationed along with a constable at Dickenson's to assist the police—the prisoner (William Docking—emancipist) wanted to get on top of the house in despite of myself and the constable—he was drunk—He said he'd have revenge, he knew a soldiers and a sailors duty—he tried three times to rush against us." Constable Moylan was more forthright. "I was with Private Kelly at Dickenson's yesterday keeping the door in order to prevent the mob rushing in and out—the prisoner came out and used great violence—he said he would go out to the stables—The soldier told him mildly that he could not go out—afterward the sjeant (sic) gave him permission to go and feed the horse—He said he'd be buggered if he would go—and if it was not for that thing on the musket of that soldier's (Bess?)—be buggered, he'd do something—the exact words of his threat—the prisoner was tipsy."<sup>49</sup>

Not content with this, Docking later was part of a mob intent on rescuing a drinker from the police, one James Goldsworthy, an assigned servant of Captain Horton's. The constable in charge described the incident to the magistrate: "Cons Morgan and myself were taking a prisoner to the jail yesterday—we were followed by about 30 men trying to rescue the prisoner we had in charge..." Docking led the mob and kicked another constable to the ground making him let go the prisoner. The police also reported seeing Goldsworthy attacking another constable while the fighting and affray continued at Dickenson's.<sup>50</sup>

By the afternoon even District Constable Prescott was at Dickenson's pub trying to gauge the mood. "Charles Becket was fighting in Dickenson's public house between 4 and 5 o'clock in the afternoon—He was drunk—I saw him repeatedly in the yard at Dickenson's fighting. There was a great disorder at Dickenson's." Later that evening two constables tried to arrest Beckett. They told the magistrate: "there was fighting, drunkenness and tumult—I went into the house about 10 last to keep the peace—The

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<sup>49</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of William Docking, 26 December 1835. Brown Bess was a common name for a musket.

<sup>50</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of James Goldsworthy, 26 December 1835.

defendant was fighting, I asked him what he was doing—he then struck me several times saying there was a mob at Ross Bridge intending to slaughter the constables.” Later at his appearance in court, Becket told the magistrate, “I don’t recall being the man at all.”<sup>51</sup> Dickenson was fined around £20 over the next few days for a number of breaches of the Publican’s Act on Christmas Day.

The statements to the magistrates on Boxing Day reveal some glimpses of the rowdy recreation enjoyed by the working class. This was a traditional holiday and they knew they had a right to celebrate it as they chose, regardless of whether they were convicts or not. They stood together as men enjoying their holiday and no doubt similar scenes were being enacted in rough public houses all over England to celebrate Christmas in the same way. Certainly the magistrates saw it differently. Several of the assigned servants got floggings or a few days of solitary confinement for their efforts and a few ticket of leave and freed men were fined. Most of the drunks and fighters were ignored by the law. The Ross Bridge ganged convicts were tried by Captain Turner and their sentences were not recorded in the bench book but their punishments were likely to have been similar to those received by the assigned servants.

Despite their occasional celebrations, the Bridge Gang was a tolerably hard working gang and had relatively few charges laid against them in early 1835 for work related incidents. In general, the gang appeared to be a relatively orderly workplace with a reasonable degree of cooperation between ganged convicts and their overseers. Most work related charges were laid between March and the end of June.<sup>52</sup> This coincided with the arrival of Captain William Turner as the new superintendent of the gang and the period when thirty or so charges were laid against gang members who were working for themselves or trafficking in building materials. The trafficking charges may have increased tensions in the gang between the workers and their overseers. Overseers may have tightened up their control over the men during this period and been less willing to hand out privileges or overlook minor misdemeanors.

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<sup>51</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, 1835, AOT, Trial of Charles Becket, 26 December 1835.

<sup>52</sup> See Table 6.1

An additional 32 work related charges were laid against gang members between March and June. These were mostly laid against the convict labourers rather than the tradesmen. Around twenty five charges of idleness, disobeying orders or neglecting duty were laid which suggests that Captain Turner was expecting increased work outputs from the labourers and willing to charge any who didn't comply. A few of the men resisted this approach and were charged with insolence, misconduct, using improper expressions and fighting. Despite these charges, it was a reasonably orderly work site, even with the stress caused within the gang because of the change of their work conditions.

Although the Ross Bridge Gang was the largest in the district, a number of other small local gangs had been established in 1835 to attend to minor public works around the district. There are difficulties in comparing them to the Bridge gang.

Around 50 men worked in the bridge gang and another sixteen worked in either the charcoal burners' or the carpenters' gang that worked in the hills outside Ross. Exact numbers in the Epping Forest and Burke's road parties are hard to document but were likely to be small, possibly fewer than 30 men in each. Both gangs worked on the Main Road north of Campbell Town. In addition, there was also a Campbell Town foot party, occupied with street repairs and maintenance of the government buildings.<sup>53</sup>

These gangs are not strictly comparable for the year 1835 as the bench book does not record charges for the whole year for some of these gangs. The Epping Forest and Burke's road parties only presented charges before the police magistrate for two months of 1835. At other times they were likely to have been under the control of a military superintendent who was authorized as a justice of the peace, to hear charges against his own ganged men. The Ross Bridge gang records also ceased to be recorded in the police magistrate's bench book after June 1835. By contrast the records for the Campbell Town foot gang are complete for the year, as the police magistrate retained daily control over these convicts. Even so, a number of

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<sup>53</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT. All of these gangs are mentioned in the Campbell Town bench book for 1835.

comparisons between the gangs can be made even though the charges sheets alone do not reveal the extent of all work issues and law breaking in the gangs as they only document cases against those who were caught and charged. They are, however, indicative of the problems that existed in different types of gangs.

There was an unusually low rate of absconding from both the Ross Bridge gang and the Campbell Town foot gang for the three years between 1833 and 1835.<sup>54</sup> This suggests that the conditions that pushed men in other gangs to run may have been absent in these two gangs. By comparison, in two months, six men absconded from Burke's road party and two from Epping Forest. Peter Middleton who absconded twice from Burke's gang, told the magistrate that he didn't run away from Burke's party but he wanted to come and see the magistrate and Thomas Orchard said he "left the party with the intention of coming to Campbell Town to procure medical aid being too ill to work".<sup>55</sup> Both explanations suggest dissatisfaction with conditions in the gang.

The Campbell Town foot party had similar access to village facilities as the Ross gang and trafficked or traded when possible. Two men in the Campbell Town gang were charged with trafficking with village residents. James Button was caught making springs for sale and John Cocker trafficked with a worker from Hogg's inn in Campbell Town very probably obtaining liquor for gang members.<sup>56</sup> Collectively these few charges demonstrate that cash could be earned by men from almost any gang, as long as they could get their goods to a market close by. Even the more remote Burke's road party was subject to trafficking from men who would travel out to the gang to trade with them. William Clarke the gang overseer was charged with allowing this to happen.<sup>57</sup>

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<sup>54</sup> Mathew Loone, Excel Spreadsheet, *Notices of Absconders, Government Gazettes*, 1833,1834. UTAS, 2005. Thesis, Bachelor of Arts with Honours in History, School of History and Classics, University of Tasmania, 2005.

<sup>55</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trials of Peter Middleton ,19/11/1835 & 8/12/1835, and Thomas Orchard, 8/12/1835.

<sup>56</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trials of James Button, 14 August 1835, and John Cocker 8 September 1835.

<sup>57</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of William Clarke, 2 November 1835.

A few ganged men attempted to make money through stealing or trading in stolen items. Henry Stewart of the Ross gang was found with a quantity of stolen fencing wire in his possession while John Smith had a bucket of fat he couldn't explain and the Ross gang's flagellator stole the blacksmith's horse and offered it for sale, although he was drunk at the time the offence took place.<sup>58</sup> These thefts suggest that petty theft was still a source of income for some gang members who didn't make goods to traffick and was not solely the consequence of inferior living conditions. Accommodation and food was likely to be much better in the two village gangs than in more isolated gangs as suppliers were local and accountable. On one occasion, a convict worker was disciplined for shirt-fronting a farmer in Ross and complaining about the quality of the vegetables he had recently supplied to the gang's mess.<sup>59</sup>

Few convicts in the Campbell Town foot party were charged with poor work standards and on the whole, disciplinary problems were minor. One man was charged with intentionally losing the government bullock, four with refusing to work because of the weather or other reasons, and two with being insolent.<sup>60</sup> The foot gang appeared to be a malleable, small gang whose work made them highly visible around the village where they functioned in a similar way to later council outdoor gangs, occasionally grumbling and being uncooperative but generally integrated into the community and engaged in useful and easy work. These small village gangs appeared in most villages in mid 1835 and were probably some of the less brutally managed gangs across the island. Their integration into village life made it less likely that they would suffer from either inadequate care or acts of extreme punishment as this was likely to be known immediately and arouse public disapproval. The police magistrate remained accountable to public opinion to a greater extent than superintendents of remote gangs, because his local court was open to public scrutiny.

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<sup>58</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trials of Henry Stewart, 20 May 1835 and John Smith, 1 June 1835 and James Murphy 21 December 1835.

<sup>59</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of John Davis, 30 May 1835.

<sup>60</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trials of George Sweetman, 28 February and 1 August; Charles Williams, 4 September; John Kenmore, 24 October; John Cocker 11 November and William Webber, 28 February 1835.

This did not save gang members from receiving floggings but it may have mitigated the severity of the floggings to some extent. Table 6.1 shows that during 1835, the police magistrate sentenced local gang members to 31 floggings during the first half of the year. There is no evidence about what local people thought about the flogging of men whom they knew and who worked in their own community although there was a growing public rejection of flogging in Van Diemen's Land as it reminded too many liberal middle class settlers of slavery.

Table 6.1: Police Magistrate's sentences of flogging for local gang members in 1835.

Outcome	Campbell Town foot party	Ross Bridge gang	Totals
Flogging- no previous sentence in 1835	2	15	17
Flogging- 1 previous sentence in 1835	0	10	10
Flogging- 2 to 3 previous sentences in 1835	1	3	4
Totals	3	28	31

Source: LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT.

The Ross Bridge gang received a much higher rate of flogging than the Campbell Town foot party for the year and fifteen of them were on their first disciplinary charge when they were flogged, although some may have had poor conduct records from previous years. However, most men received fewer than the maximum of 50 lashes that the governor had decreed as the maximum punishment, possibly to enable them to resume work more quickly.

Table 6.2: Number of lashes for local ganged convicts in the Campbell Town district in 1835.

Number of lashes	12	20	24	25	30	35	36	50	N/R
Number of cases	1	3	2	6	7	2	1	7	2

Source: LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT.

The local administration used flogging because it was cheap and its use was more frequent on ganged men who were already under sentence of punishment, than on assigned men. There was also an urgency to complete the bridge work at Ross and to turn around the less than efficient work outputs of the convicts. Overwhelmingly the floggings were for disruptive or uncooperative behavior at work. Of the six men who were ordered the maximum 50 lashes, three had their sentences reduced. One man had 50 lashes reduced to 30 when the district surgeon confirmed he was too ill to sustain the harsher punishment.<sup>61</sup> Another, on a charge of disobedience, also had his sentence reduced to 30 lashes and the third had his sentence for a drinking offence reduced to 20 lashes.<sup>62</sup> However, several men received a full 50 lashes. James Carney was flogged for refusing to work for the overseer and Christopher Bassett for working for himself.<sup>63</sup> John Ward got two floggings of 50 lashes, the first in March for using improper expressions which suggests he was abusive to the overseer and again in May for refusing to work.<sup>64</sup>

Little is yet known about the flogging rates in many other gangs. Maxwell-Stewart has deduced that in the 1820s, the mean rate was 70 lashes in the two labouring gangs at Macquarie Harbour, although this generally meant sentences of 100 lashes were the most common.<sup>65</sup> In his study of Port Arthur between 1830 and 1832 the mean rate had been reduced to 22 lashes in the labouring gangs, which also indicated that most men who were flogged experienced more than 22 lashes.<sup>66</sup> Whitefoord's flogging rate seems comparable in severity with that at Port Arthur, a penal station of last resort for prisoners. Evans and Thorpe offer the explanation that after the mid 1820s an increasing militarization of penal discipline occurred in both colonies and cite Bigge who recommended "a rigid and uniform corrective discipline,

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<sup>61</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT. Trial of Charles Jepson, 11 May 1835

<sup>62</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT. Trial of James Button, 12 June 1835 and trial of Richard Copperwhite, 19 May 1835.

<sup>63</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of James Carney, 2 May 1835 and trial of Christopher Bassett, 7 April 1835.

<sup>64</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trials of John Ward 30 March 1835 and 2 May 1835

<sup>65</sup> Maxwell-Stewart Hamish, 'Convict Workers, Penal Labour and Sara Island: Life at Macquarie Harbour, 1822-1834', Ch. 8 in Duffield Ian and Bradley James (eds), *Representing Convicts: New Perspectives on Convict Forced Labour Migration*, London, Leicester University Press, 1997, p. 149.

<sup>66</sup> Maxwell-Stewart Hamish, 'The Rise and Fall of John Longworth: Work and Punishment in Early Port Arthur', *Tasmanian Historical Studies*, Vol.6, No. 2, 1999, pp. 104-5.

unswervingly applied.” In Moreton Bay penal station a total of 219 floggings (10,000 lashes) occurred between late 1835 and 1842, despite the decline in convict numbers from 311 to 94.<sup>67</sup> Whitefoord’s sentences amounted to over 600 lashes ordered for around 50 men over a six month period and so surprisingly, seem at least comparable to the flogging rate at Morton Bay. It appears that by the mid 1830s, flogging had become so institutionalized in both colonies as a work discipline that even a civilian magistrate like Whitefoord was prepared to inflict a flogging rate on the labourers of the Ross Bridge public works gang that was comparable to the rates in two of the worst penal stations in the colonies.<sup>68</sup>

Police magistrate Whitefoord also imposed many lesser sentences, including forty four instances of reprimanding convicts or sentencing them to the solitary cell for several days. These warning sentences were his strategy of giving the men brought before him a chance to choose to cooperate without incurring harsher punishments.

Table 6.3: Other sentences imposed by the police magistrate on local gang members in 1835.

Outcome	Totals	Outcome	Totals
Reprimand/admonished	29	Extension to sentence	4
Solitary cell, B&W	15	Removal to prison	3
Work in chains	3	Remanded to appear at Quarter Sessions Court	8
Removal to stricter road party, hard labour	15	Charge dismissed	4
Removal to chain gang	7	Sentence not recorded	2

Source: LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, 1835, AOT.

As well he had some prisoners work in chains for several months and a number of men were removed entirely from the gang and sent to other road parties or chain gangs and even to Port Arthur. This suggests that Whitefoord believed that working conditions were milder in the Bridge gang and is further evidence that conditions varied considerably between different road parties and public works gangs.

<sup>67</sup> Raymond Evans and William Thorpe, ‘Power, Punishment and Penal Labour: *Convict Workers* and Moreton Bay’, *Australian Historical Studies*, Vol.25, No. 98 1992, pp. 102-103.

<sup>68</sup> Stephen Nicholas, *Convict Workers*, pp. 181. Nicholas cites Hirst who suggests the flogging rate went up substantially in NSW in 1835.



There are at least two narratives that represent the story of the Ross Bridge gang although they are gulfs apart. Prosaically, a small group of convicts who were poorly led and supervised arrived in Ross and for three years failed to make much progress on the bridge works. Eventually tradesmen-overseers were appointed and more convicts were supplied for the labouring gangs. With stronger support from the local police magistrate and the arrival of a military superintendent, they completed the bridge in two years and it was successfully opened in 1836.

But the bridge narrative functions at another level too, when a closer look is taken at the convict workers themselves. When the first gang arrived in 1830 they integrated into the local community, occupying the spaces in between the free world of the settlers and that of the convicts. They were active builders who completed both local government infrastructure and also farm buildings and houses for the settlers. In some ways they already exemplified the concept of reform that Arthur saw as the end process of the experience of transportation. These personal gains, however, were subordinated to the task of completing the bridge and the tradesmen and labourers were brought under control by the use of whips and chains that were the official methods of gang coercion.

When the bridge was completed, the settlers marveled at the strange sandstone carvings that covered the arches. A crowned king, women with flowers, a lamb, a tree with a lion's head, wavy lines, a boat and many more enigmatic symbols were crowded into a collage of images.<sup>69</sup> Did they represent the strange and fractured experiences of the bridge builders or did they contain cryptic comments about their servitude? Daniel Herbert, the master stone mason who carved them, would never say. Their closest resemblance was to the symbols in the tattoos that the convicts had pricked onto their bodies during their voyages out. Many different images of candles, stars, hearts, anchors, flames and others were encoded in the designs along with

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<sup>69</sup> Greener & Laird, *Ross Bridge and the Sculpture of Daniel Herbert*, p. 124, also photographic appendix of all carvings. See also Denis Gojak, 'Convict archaeology in New South Wales: An overview of the investigation, analysis and conservation of convict heritage sites', *Australasian Historical Archaeology*, 19, 001, p.75 for use of symbols used in patterning on cheap ceramic and other goods.

words or groups of letters that had some significance to the men.<sup>70</sup> Tattooed men building a tattooed bridge and encoding it with their own meanings—men who could be suborned by official violence but who could also find the spaces in between to enact their own thoughts and behavior, whenever there was an opportunity to appropriate some semblance of freedom.

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<sup>70</sup> H. Maxwell-Stewart & J. Bradley, 'Convict tattoos: Tales of freedom and coercion', in Michelle Field & Timothy Millett (eds), *Convict Love Tokens: The leaden hearts the convicts left behind*, Kent Town, Wakefield Press, 1998, pp. 47-52. See also David Kent, 'Decorative Bodies: The Significance of Convicts' Tattoos', *Journal of Australian Studies*, No. 53, 1997, pp. 78-85.

## Chapter 7: Women and Work.

In 1837 Josiah Spode, chief superintendent of convicts in Van Diemen's Land, said the female convicts were "worse in every respect to manage than male convicts ...They all feel they are working under compulsion which renders it almost a continual warfare between their employers and themselves."<sup>1</sup> Spode was one of many officials who were frustrated by not being able to force working class convict women to work submissively, be deferential to their employers, desist from sexual behavior outside of marriage, be sober and use decent language. Many were far more scathing than Spode. Molesworth, in 1838, reported that convict women were "all irreclaimable prostitutes, too often disgusting by the indecency of their language and demeanor."<sup>2</sup>

While some earlier historians accepted the moralistic judgments of the colonial officials and some settlers, others like Sturma have argued that in the wider context of British working class behavior, the behavior of female convicts was less aberrant than portrayed.<sup>3</sup> Within revisionist and feminist histories three questions have dominated the study of female convicts over the last thirty years: Were their chief roles to be either whores or mothers? Were they professional criminals or valuable workers who contributed to the economic growth of the colonies? How much control did they have over their lives or were they the passive victims of a patriarchal administration? Lake argued compellingly that these dichotomies may not be the most useful ways of trying to interpret the behavior of female convicts because these options need not be mutually exclusive. It was possible for women to be caught "in patterns of oppression and exploitation...while at the same time registering the capacities of...initiative, rebellion and judicious negotiation."<sup>4</sup> Damousi later proposed that it is time to move the debate away from these recurring themes and explore the cultural meanings of many of the convicts' actions and the dynamics of

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<sup>1</sup> Josiah Spode, 30 August 1837, CSO5/134/3210, p. 254, AOT.

<sup>2</sup> Great Britain, Parliament, House of Commons, Select Committee on Transportation, *Report from the Select Committee of the House of Commons on Transportation: together with a letter from the Archbishop of Dublin on the same subject: and notes by Sir William Molesworth*. London, Henry Hooper, 1838, p.36.

<sup>3</sup> Michael Sturma, 'Eye of the Beholder: The Stereotype of Women Convicts, 1788-1852', *Labour History*, 34, 1978, p. 3.

<sup>4</sup> Marilyn Lake, 'Convict Women as Objects of Male Vision: An Historical Review', *Bulletin for the Centre for Tasmanian Historical Studies*, Vol.2, No.1, 1988, p. 48.

the relationships they had with each other, with convict men and employers.<sup>5</sup> This is a tempting option, even though many of the meanings of their actions are lost to us, as few convict women wrote of their circumstances.

This chapter will try to locate the 86 assigned convict women within the general structure of the whole female community in the Campbell Town district by proposing a distribution of the settler, emancipist and convict women living in the district in 1835. The demand for their labour will be discussed and their distribution to different groups of employers presented. Most of them had skills as domestic servants and worked in this capacity. The charges brought against them by their employers will be examined as a gauge of their ability to provide reasonable service in their employment. The role of their employers will also be examined, especially their responsibilities to train and supervise their domestic workers. Finally this chapter will also look more obliquely for possible cultural meanings embedded in the colonial master and servant relationship and the ways in which this relationship was changing and affecting the behaviors of both employers and their convict servants.

Although some historians claimed convict women's work was not valued in the colonies, or was only of real value when they married and became wives and mothers, this position has been challenged by those who agree that there was demand for domestic workers and, to a lesser extent, specialized farm workers such as dairymaids.<sup>6</sup> It is more difficult to sustain this argument in New South Wales in the 1830s in rural areas where drought, increased numbers of free immigrant women and the continued placement of women convicts on farms of less than 2000 acres caused some settler families to return their female convicts to the government for economic

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<sup>5</sup> Joy Damousi, 'Beyond the Origins Debate: Theorizing Sexuality and Gender Disorder in Convict Women's History', *Australian Historical Studies*, 106, 1996, p. 62.

<sup>6</sup> For those who saw their economic value as wives and mothers see Paula Byrne, 'Women and the Criminal Law: Sydney 1810-1821', *Push from the Bush*, No.21, Oct 1985, p. 5; Portia Robinson, *The Women of Botany Bay: a reinterpretation of the role of women in the origins of Australian society*, Ringwood, Victoria, Penguin, 1993 ; Monica Perrott, "A Tolerable Good Success": *Economic Opportunities for Women in New South Wales, 1788-1830*, Sydney, Hale and Iremonger, 1983 and David Kent & Norma Townsend, "'Female Convicts': An Accurate View of Working Class Women?", *Labour History*, 65, Nov 1993, pp. 179-191.

reasons.<sup>7</sup> However in Van Diemen's Land in the 1830s, middle class farmers were consolidating their wealth on large holdings of up to 5000 acres in drought proof areas with their incomes increasing due to the export of wool and grain, and the high prices paid to them for meat and grain by the commissariat store.<sup>8</sup>

The female convicts selected for the colonies were overwhelmingly domestic workers. Although Oxley indicated that her sample included women with over 36 trades listed on their indents, 77% of the women claimed to be domestic servants, the rest being almost equally divided between those who were skilled and unskilled urban workers and unskilled rural workers.<sup>9</sup> Kent and Townsend argued that the domestic workers did not bring immediately useful job skills to the colony, but evidence from Reid supports the view that middle class colonists in Van Diemen's Land, even in rural areas, were desperate for domestic servants and around 90% of female convicts were assigned to settlers within a month of their landing.<sup>10</sup> Despite the high dispersal rates of female arrivals, only about three quarters of the 1900 women still serving their sentences in 1835 were working as assigned servants. Although this was higher than the proportion of male convicts assigned to settlers, the other 25% of female convicts were incarcerated in the Houses of Correction as punishment for offences and a small number were waiting to give birth.<sup>11</sup> There is also anecdotal evidence that the services of female convicts were in demand. The local colonial press frequently urged the administration to immediately reassign the women serving punishment sentences in the Houses of Correction, as even difficult servants were better than none at all. Indeed it was once proposed that all female convicts should be freed on landing as they could immediately be employed as domestic workers.<sup>12</sup> This was a very different situation from New South Wales

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<sup>7</sup> Kristine McCabe, 'Assignment of Female Convicts on the Hunter River, 1831-1840', *Australian Historical Studies*, No 113, Oct 1999, p. 298-299. Also A. Salt, *These Outcast Women: The Parramatta Female Factory 1821 - 1848*, Sydney, Hale & Iremonger, 1984, p. 53.

<sup>8</sup> Sylvia Morrissey, 'The Pastoral Economy, 1821-1850', in James Griffith, (ed), *Essays in Economic History of Australia*, Milton: Queensland, Jacaranda Press, 1967, pp. 75-76. James Ross, *Hobart Town Almanack*, Hobart, 1834, pp. 64-68.

<sup>9</sup> Deborah Oxley, 'Female Convicts', in Stephen Nicholas (ed), *Convict Workers: reinterpreting Australia's past*, Cambridge, Cambridge University Press, 1988, p. 91.

<sup>10</sup> Kirsty Reid, 'Setting Women to Work The Assignment System and Female Convict Labour in VDL, 1820-1839', *Australian Historical Studies*, vol.34, 121, 2003, pp. 4-8.

<sup>11</sup> *General Muster List*, HO 10/49, AOT, 31December 1835.

<sup>12</sup> Reid, 'Setting Women to Work', p. 7.

where, throughout the 1830s, around 500 women waited for assignment in the Female Factory.<sup>13</sup>

Many of the Midlands farmers in the Campbell Town district were building their third residence in the 1830s, usually impressive permanent houses to replace the wooden or small brick dwellings they first occupied. These houses were not as grand as the great houses or mansions typical of the wealthy middle class Americans of this period, with their highly differentiated public spaces of ballroom, drawing room, dining room, parlor, hall and library.<sup>14</sup> However, many had some clearly differentiated public spaces in which to entertain visitors. Although Ellen Viveash privately criticized the Jellicoes for the extravagance of adding a ballroom thirty feet in length, to their home Camelford Cottage, many of the new dwellings constructed in the 1830s had carriage turning circles, ornamental gardens and other trappings of grandeur.<sup>15</sup> In order to function as spaces, these buildings and their surrounds required the input of considerable labour from servants, many of them female.

The supply of female convicts can be seen in Table 7.1 showing the official *Blue Book* estimates of the numbers of women in the Campbell Town Police district. During Arthur's later administration, convict and ticket of leave females in the district accounted for between 14% and 19% of the total female (including female children) population.

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<sup>13</sup> A. Salt, *These Outcast Women: The Parramatta Female Factory 1821 – 1848*, Sydney, Hale & Iremonger, 1984, p. 52. In 1835 around 500 women were resident each month at the Parramatta Female Factory and this increased to 600-700 in the late 1830s.

<sup>14</sup> Jessica Kross, 'Mansion Houses in Colonial America', *Journal of Social History*, Vol. 34, 4, 2001, pp. 925-926.

<sup>15</sup> Pamela Statham (ed), *The Tanner letters: A pioneer saga of Swan River and Tasmania, 1833-1845*, Nedlands: W.A., University of Western Australia Press, 1981, p. 86.

Table 7.1: Estimates of free and convict women in the Campbell Town police district.

	1833	1834	1835
Free females, all ages, includes emancipists.	321	365	400
Convict & ticket of Leave females	53	84	86
Total district females	374	449	486
Convict & ticket of leave females as % Of total female population	14%	19%	18%

Source: *Blue Books*, CSO50/8-12, 1833-1835, AOT.

Table 7.1 provides evidence that female convicts were in short supply in the Campbell Town police district, which is supported by settlers' complaints about the insufficient supply of convict women as domestic servants. While it is difficult to estimate the composition of the free female group in the district until the first census data was collected in 1842, probably around one third of the free female population in Table 7.1 were settlers' wives and adult relatives: the majority of the rest were female children. As well, between 30 and 60 emancipist women, whose numbers increased annually, were also counted in this group of free women. Local records show that some emancipist women were also part of the district's paid domestic labour force and worked for both commercial families in the villages as well as for farming families.

It was within this small community of settlers' wives and their children that the female convicts and ticket of leave women had to work. Around twenty families had commercial businesses in the villages such as shops or inns. Another forty or so had small manufacturing businesses which employed male convicts in grain mills or enterprises producing building supplies. Reid has shown that convict women with trade skills were efficiently distributed to employers such as clothing or footwear manufacturers in Hobart or Launceston.<sup>16</sup> The disparity between the distributions of female convicts across the colony, shown in Table 7.2, suggests that as 71% of all female convicts were assigned to either Hobart or Launceston, where most manufacturing took place, there was little likelihood of female convicts with trade skills being assigned to the Campbell Town district, although it is possible that a few ticket of leave women may have chosen to live in the district and work at their trades.

<sup>16</sup> Reid, 'Setting Women to Work', p. 21.

It was also not uncommon for married working class women to work from home at dressmaking and the millinery trade. The majority of female convicts, however, were assigned to the local estates or commercial premises and worked as domestic servants.

Table 7.2: Estimates of numbers of convict women in different towns and districts in 1835.

	Hobart town	Launceston town	Richmond district	New Norfolk district	Campbell Town district	Remaining rural districts	Totals
Number of assigned convict women	883	335	114	92	86	194	1706*
Percentage of convict women assigned to the area.	51.5	19.5	6.6	5.3	5.1	12	100

Source: Ross, *Almanack*, 1836, p. 46.

Note: (\*) Two different totals for assigned women were presented in 1835. Convict department estimated the total number of female convicts residing in these areas. This estimate appears in their data in Appendix 3 and differs from their other estimates in their Convict Returns for 1835 in Appendix 4. The Convict Department sometimes gave different estimates of the same groups of convicts in data compiled for different purposes.

By the mid 1830s, a pattern of distribution of female convicts had been established across the island, as shown in Table 7.2 that indicated that fewer than 30% of female convicts resided in country areas. Within rural districts, a further pattern of distribution existed for their placement with families, as shown in Table 7.3.

The muster data indicates that most females assigned to the district were placed with respectable large land owners. Some farms and small commercial premises received only one assigned female servant, suggesting that some assigned females worked as a servant of all work, unless additional ticket of leave or free women were also employed. This was far from the majority experience though as over 60 of the female convicts in the district worked on properties where at least one other female convict was present.<sup>17</sup>

<sup>17</sup> The three women, who remained assigned to publicans, in December 1835, had probably been assigned earlier that year. In mid 1835 Arthur stopped assigning women to publicans because too many of the women were being charged with drinking and other offences. Throughout 1835, the



Table 7.3: Distribution of 88 female assigned servants in the Campbell Town police district in December 1835.

Number of female servants assigned to each master.	Local magistrates	Farmers	Ministers & doctors	Shop keepers	Publicans	Total females
One		17		5	3	25
Two	8	6	4	1		38
Three	2	2				12
Four		1				4
Nine		1				9
Total females	22	48	8	7	3	88

Source: *General Muster List*, HO 10/49, AOT, 31 December 1835.

Around twenty five households received more than one female convict servant. Those settlers who were assigned two or more probably obtained them as a mark of their elevated position in the community, such as the local magistrates, doctors and ministers or because they had a commercial need for women with particular skills. From this distribution it is apparent that despite the farming wealth of the district only nine farmers, employing between two and four women, were likely to have received some women with specific agricultural skills in addition to domestic skills. Only one local family merited a large allocation of female convicts to help staff an exclusive girls' school that Mrs Clark of Ellenthorne farm managed, separate from her husband's substantial farm. The convict women had the necessary spread of domestic skills required for a large boarding school. Apart from a head cook, two other women also had cooking skills; another was a dressmaker and two others were needlewomen. A laundry maid and three additional house servants had been supplied and some of the women were capable of being employed at several different tasks.<sup>18</sup> The muster data shows the district situation in late December 1835, so the employment distribution of female convicts may have varied slightly in numbers

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bench book data shows that at least 12 different female convicts had worked for part of the year in local public houses.

<sup>18</sup> Reid, 'Setting Women to Work', p. 19.

throughout the year, although this data is indicative of the general pattern of local assigned female employment.

Reid has estimated that some assigned convict women negotiated wages between £12 and £30 per annum, which was close to the rate paid to free women.<sup>19</sup> In the Midlands it was more likely that employers, who wanted their female convicts to stay, paid a lower amount in cash but added goods in kind that may have increased the total benefit. While there is evidence of wages being paid to ticket of leave and emancipist women who worked in the district in 1835, there is no direct evidence of wages being paid to female convicts. However the necessity for wealthy households to have female domestics and evidence that some farmers paid cash bonuses or wages to some of their convict men, suggests it is likely that some female convicts may also have received wages. The rate of wages paid to female emancipist servants probably serves as a good guide to the maximum that female convicts would have received if they had been paid. Ann Jones took Thomas Tucker a local bricklayer, to court to claim wages he withheld when she broke her contract and left him to work for the Harrisons, one of the large land owning families. She had contracted at the annual rate of £16 to work three months for the Tuckers, until Mrs Tucker was confined. She left after two months when she secured more favorable conditions with the Harrisons. The magistrate ordered Tucker to pay her half of the withheld wages.<sup>20</sup>

One measure of the success or failure of the local female convicts as workers was the number of times they were charged with work related offences in the magistrates courts. During 1835 only thirteen women were charged with offences related to poor work and two more with insolence to their employer. These represent 13 out of a total of 70 charges brought against female convicts by employers. Table 7.4 compares this with the sample of work related offences amalgamated from Reid's study of 1844 charges from bench books across the colony between 1820 and 1840.<sup>21</sup>

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<sup>19</sup> *Ibid*, p. 8.

<sup>20</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of Thomas Tucker, 21 January 1835.

<sup>21</sup> Kirsty Reid, ' "Contumacious, Ungovernable and Incorrigible": Convict Women and Workplace resistance, Van Diemen's Land, 1820-1839', in Duffield Ian and Bradley James, (eds.), *Representing Convicts: New Perspectives on Convict Forced Labour Migration*, London, Leicester Press, 1997, Table 6.1, p. 109.

Table 7.4: Work related charges against convict and free women in the Campbell Town police district (CTPD) in 1835 compared with selected charges from Reid's sample of 1,884 charges in Van Diemen's Land, 1820-1839.

Charges	Number for convict & ToL women CTPD, 1835	Rate of charges for convict & ToL women, CTPD.	Reid, Selected charges in her sample, 1820- 39, Table 6.1	Rate of charges in Reid's sample of 1884 charges
Insolence	2	3%	224	12%
Work related	13	18%	*496	26%
Other charges	55	79%	1164	62%
Total charges	70	100%	1884	100%

Source: LC 83/1, Magistrate's Bench book, Campbell Town Police District, 1835, AOT; and Kirsty Reid, "'Contumacious, Ungovernable and Incurable': Convict Women and Workplace Resistance, Van Diemen's Land, 1820-1839", in Ian Duffield and James Bradley, (eds), *Representing Convicts: New Perspectives on Convict Forced Labour Migration*, London, Leicester Press, 1997, Table 6.1, p. 109.

Reid's data suggests that during the period 1820 to 1839 work related and insolence offences made up about 26% of all offences listed in the surviving bench books across the colony. The 496 work related charges in Reid's data include the separate charges of neglect of duty, disorderly conduct, misconduct, refusing to work, verbally abusing her employers, refusing to return to service, dispute with fellow servants, insubordination, threatening to leave service, feigning illness, idleness, threatening her employer, violent and outrageous conduct, refusing to go to her service. Comparable charges from the Campbell Town bench book for one year show a much lower rate of 18%. This lower rate may be more representative of a rural district where employers were characteristically large estate owners. Insolence was almost always included in Campbell Town as a component of other work related charges and only rarely listed as a single offence.

An average of only one work-related charge a month was referred to the Campbell Town courts. In this community of 85 - 90 female convict workers, more than

seventy women were not charged with unsatisfactory work outputs during the year. This is not meant to imply that the women's work was uniformly excellent, but it does indicate that the standard of their work was sufficiently satisfactory not to warrant the inconvenience of bringing them before a magistrate. This appears to be an unusual outcome considering the harsh official criticisms often voiced about female convicts' poor work and their frequent quarrels with their mistresses. However, the low level of work related charges could also suggest that during the late assignment period, a rural police district with an increasingly prosperous farming community may have developed better than average working relationships between the convict female workforce and their employers.

Reid argued that in Van Diemen's Land female convict domestics, being in short supply, could negotiate reasonable working conditions for themselves bargaining for cash wages, extra rations, clothes, specific working hours and, even in some cases, their own room.<sup>22</sup> McCabe noticed that large land owners in the Hunter Valley of New South Wales kept their female servants longer than small land holders did. She conjectured that large land owners' wives may have had better skills managing the women and the time to spend training and disciplining them.<sup>23</sup> George Allen, the master of Toxteth Park, managed his convict servants in the 1830s by endeavoring to make them comfortable, not being overbearingly demanding and being fair.<sup>24</sup> It is also possible that the distance from the bench may have acted as a dissuading influence on some masters whose farms were remote.

Masters had to adjust to the assertive working class behavior of convicts and emancipists if they wished to hold on to their services. In a climate characterized by a shortage of supply, tact and negotiation may have proved better management strategies than coercion. Lieutenant-Colonel Mundy wrote droll letters about the new types of colonial relationships that existed between masters and servants that grew out of the convict experience. Servants were nonchalant about the prospect of being

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<sup>22</sup> Reid, *Representing Convicts*, p. 118.

<sup>23</sup> Kristine McCabe, 'Assignment of Female Convicts on the Hunter River, 1831-1840', *Australian Historical Studies*, No 113, Oct 1999, pp. 300-301.

<sup>24</sup> Barrie Dyster, *Servant and Master: Building and Running the Grand Houses of Sydney 1788-1850*, New South Wales University Press, Sydney, 1989, pp. 64-69.

sacked or not getting references because they could immediately be hired by neighbors desperate for their services. They took a week or a month off if they wanted to go visiting and preferred to be hired by the week as it gave them greater flexibility. They were in constant discussions with Mundy's neighbors and would go over to them as soon as they negotiated a better employment offer.<sup>25</sup> While Spode complained about the inability of convict women to adjust to their masters' work demands, he failed to perceive the lesson learnt by masters like Allen and Mundy. Employers needed to make as many adjustments to their new type of servants as the convicts did to them. Many of the cases that came before the Campbell Town bench and other courts were often examples of negotiations that had broken down between the master and servant, sometimes over a protracted length of time.

Efficient mistresses, who could negotiate with their domestic servants, train them if needed and be strong enough to exert reasonable control over household management, had positive experiences with their convict domestics. Ellen Viveash wife of a local justice of the peace, was keen to employ a female servant in the house, but wanted to ensure that she could get a satisfactory one. She asked James Simpson, the former police magistrate at Campbell Town then residing in Hobart, to look out for a suitable woman for her, either free or convict.<sup>26</sup> He arranged the assignment of a convict woman and by June 1834, Ellen was writing to her sister:

The female servant is come, she is respectable looking and her behavior is so likewise. I am agreeably surprized with what I have yet seen. She goes about her work very willingly, and does things better than is usual here. She is an excellent washer and not slow. Her washing will earn her keep and cloaths. She tries much to oblige not officiously, but by doing things well, and instantly doing something useful without waiting to be told. I have remarked many things that auger well...She says she can cook in a plain way...sew in a plain way and does not dislike working on the whole. I hope to keep her some time as she can scarcely hope to get an easier place, nor I a better servant<sup>27</sup>

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<sup>25</sup> Dyster, *Servant and Master*, pp. 71-72.

<sup>26</sup> Pamela Statham (ed), *The Tanner Letters: A Pioneer Saga of Swan River and Tasmania*, University of Western Australia Press, 1981, pp. 92-93.

<sup>27</sup> *Ibid*, pp. 97-97.

Louisa Meredith who farmed at Swan Port in the 1830s, wrote about the varying quality of the convict servants she had employed. The best was “a short, clever, brisk, good tempered Yorkshire woman,...who stayed with us a year and a half, and then married comfortably” and she acknowledged, that after some initial problems, she had “never since detected any act of dishonesty in one of our (female) servants, though all have been prisoners”.<sup>28</sup> She did report, however, that she had had earlier less satisfactory experiences when convict servants had got hold of liquor.

Drinking, and the lack of a mistress to set tasks and supervise, had created a shambles of disorder and idleness amongst the convict servants at Elizabeth Fenton’s Derwent Valley farm before she arrived in 1830. She calculated that the convict woman had opened a keg of rum and been the cause of the disastrous domestic scene she saw. But it only took this experienced home maker less than a month to turn round this situation, by organizing the “scouring, dusting, whitewashing, and general correcting of abuses” so that she sat down in a clean apartment, with neat floor mats, shelves for her books, windows cleaned and curtained and the rubbish removed from the verandah.<sup>29</sup>

Both Meredith and Fenton could handle the occasional drinking bouts and strong language they encountered in some convict women. Both, on the whole, found their female prisoner servants competent, willing to work and honest. By contrast, less forceful and energized mistresses, such as Mrs Barker in her fine new farmhouse and French silk gowns, reigned over the chaos of a hall used as part scullery and barn, broken furniture, dirty crockery, servants and children in dirty and torn clothes and pigs wallowing in mud and filth that led up to the front doors.<sup>30</sup> The Clarks of Ellinthorpe farm, who were the largest employers of female convict labour in the district, brought no charges against any of the nine female convict servants assigned to them in 1835. This was in contrast to the six charges that they brought against some of their male convict farm servants. Most other Campbell Town district

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<sup>28</sup> Louisa Meredith, *My Home in Tasmania*, (1852), Adelaide, Sullivans Cove edition, 1979, pp. 63-64.

<sup>29</sup> H.W. Lawrence (ed), *The Journal of Mrs Fenton*, London, Arnold, 1901, pp. 384 – 390.

<sup>30</sup> *Ibid*, pp. 379–382.

farmers' wives, who only managed one or two female convicts, also found it unnecessary to use the magistrates' courts to discipline their female servants over work issues.

Not all farming families were able to manage their female servants well, but only six charged them with unsatisfactory work during 1835. The charge notes were generally brief and often no other information was recorded. The severity of the punishment took into account information presented by the employer about the lack of cooperation of the worker and the number of times they had previously been before the magistrate. George Allison brought Sara Weston back to the magistrate, as she had recently arrived at his place and claimed to be unable to stand and work because of illness; she told him she was able to do needlework. The magistrate had the district surgeon examine her and dismissed the case when the surgeon said she had rheumatism.<sup>31</sup> Weston was reassigned to a local publican in Campbell Town, a position probably more congenial to her, where later she was charged with both insolence and conducting an improper relationship with a man.<sup>32</sup> Liz Baker was merely admonished for her refusal to work when charged by Hezekial Harrison.<sup>33</sup> Two local magistrates Richard Willis and his son-in-law Capt. Serjeantson both charged women with refusal to work and insubordination. Neither of these men tolerated poor work from their convicts and very probably both were unprepared to negotiate about work or conditions. Mary Davis received three days in solitary before being returned to Serjeantson, but Elizabeth Lovett got six months in crime class at the House of Correction as other issues apart from work were presented to the magistrate.<sup>34</sup> David Murray, a farmer who also had a brewery, charged Martha Galloway with being drunk while performing her duties and refusing to hand the baby over.<sup>35</sup> Some employers, like Murray, built up a charge with a series of

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<sup>31</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of Sara Weston, 20 January 1835.

<sup>32</sup> LC 81/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of Sara Weston, 18 May 1835.

<sup>33</sup> LC 81/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of Elizabeth Baker, 11 December 1835.

<sup>34</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of Mary Davis, 8 August 1835 and Elizabeth Lovett, 2 November 1835.

<sup>35</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of Martha Galloway, 28 February 1835.

complaints to demonstrate how difficult they found the person. Galloway also received a sentence to Crime Class in the House of Correction.

The type of assignment that female convicts were given often affected their ability to cooperate with their employer and stay out of trouble. Convict women knew this themselves. Eliza Churchill commented that “Most of the women prefer being assigned in the towns, but some who wish to keep out of mischief prefer being in the country. All the women behave better in the country than in the towns, as they are not so exposed to temptations.”<sup>36</sup> Yet even within this rural region, placements could matter. Farmers, merchants and publicans placed different expectations on their female servants and within these different settings, the type of work and temptations differed.

The villages offered similar opportunities to Hobart for some women to get into trouble. It was a simple matter to slip away for a while and liquor was easy to obtain. There were more opportunities to meet men or steal and deal with receivers. It was the custom to assign the most respectable female convicts to respectable families who were mostly colonial officials and large land owners, while women judged less respectable were assigned to publicans and families running commercial premises.<sup>37</sup> Some women assigned to families who owned pubs and shops may have had a heavier work load than women working in private homes and there is some evidence that convict servants felt less need to show respect to families engaged in commerce. Three publicans brought charges against their female convicts charging them with neglect of duties and disobeying or refusing orders. In two cases the women were also drunk and abusive. Jane Jones spent twenty four hours in solitary as a result while Jane Lowig got the unpopular sentence of three months at the wash tubs at the House of Correction.<sup>38</sup> However, Elizabeth Walker appeared to have her charge withdrawn after she counter attacked in court and accused publican Richard Heaney

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<sup>36</sup> Lucy Frost, ‘Eliza Churchill tells’, Lucy Frost & Hamish Maxwell Stewart (eds), *Chain Letters: narrating convict lives*, Carlton South, Victoria: Melbourne University Press, 2001, p. 80.

<sup>37</sup> C80/50, *Female Prison Discipline Report*, Hobart, 13 December 1841, AOT, pp. 135-136, Qu.171 to Mr. Spode, Principal Superintendent of Convicts. Spode had held the position of muster master since 1828 and was promoted to principal superintendent of convicts in 1832.

<sup>38</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, 1835, AOT, Trial of Jane Jones, 12 August & 24 August 1835. Trial of Jane Lowig, 6 October 1835.



of being likely to sexually harass her when her mistress was away for the evening.<sup>39</sup> James Thompson, a local storekeeper, returned Maria Woodcock to government service for disobeying orders and being insolent, as well as having spent the previous evening drunk.<sup>40</sup> Elizabeth Harvey had to spend one month at the wash tubs in Launceston for disobeying orders and being insolent to storekeeper James Hume.<sup>41</sup> Insolence and drinking were often part of the problem of work performance and maintaining a reasonable working relationship between master and servant.

The scarcity of female servants in Van Diemen's Land created many domestic difficulties for farming and commercial households who had been used to domestic help in Britain. Because some district farming and commercial families received only one female convict domestic servant, if any, the wife and daughters were likely to have to work alongside their female servant to complete the labour intensive household and child care duties in a large family. Finding a woman to do the laundry work was particularly difficult and expensive. Colonial letters sent home to startled relatives revealed that brothers and husbands sometimes had to share the heavy laundry work with their sisters and wives until a laundry woman could be persuaded to put them on her list.<sup>42</sup> The women in the Gatenby and Parramore farming families laboured with farm work until the families became well established. Surveyor Wedge noted with approval that Gatenby had "a large family who are not too proud or lazy to work, the Wife and Daughters, milk the cows, make butter and cheese, the Sons plough, drive, saw timber for the Mill etc., and consequently they are becoming more wealthy, comfortable and independent every day."<sup>43</sup> The Parramore men laboured beside their two male convict servants for the first two years, building huts, setting up a vegetable garden and establishing fences for the cows and sheep. Mrs Parramore and her daughter had charge of the domestic livestock and vegetable and fruit

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<sup>39</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of Elizabeth Walker, 4 September 1835.

<sup>40</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of Mary-Ann Woodcock, 28 August 1835.

<sup>41</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of Elizabeth Harvey, 2 February 1835.

<sup>42</sup> Maggie Weidenhofer (ed), *Colonial Ladies*, South Yarra :Victoria, Currey O'Neil Ross Pty Ltd, 1985, pp. 98-99.

<sup>43</sup> Anne McKay (ed), *Journals of the Land Commissioners for Van Diemen's Land 1826 – 1828*, Hobart, University of Tasmania, 1962, p. 22.

gardens and had no female convict domestic help during the early years.<sup>44</sup> This was probably not an unusual situation in many of the first settler families who later became successful large land owners. The sharing of domestic labour between the family women and their domestic servant broke down, or at least blurred and confused, some of the class barriers between some middle class settler women and their working class convict servants during this period. When some settler women withdrew their labour and gained a more leisured life in the 1830s and attempted to separate themselves from the sphere of work, their servants still knew they were working for people who were self made, a point that convicts were often quick to make. Convict servants had no illusions that their masters were gentry folks, despite the nostalgic references to successful land owners as gentry that started to circulate on the island.

This was especially so with middle class settlers who had small commercial businesses. Some convicts saw masters and mistresses who worked along side of them, as barely better than themselves socially, especially as they observed that some of the more successful emancipists also chose small business or farming as a step towards security after they were freed. There were plenty of examples of this in Campbell Town and Ross. Convict policemen and emancipists like the Englebert brothers and the Solomon brothers established butchers shops and small stores employing their wives within the business. Emancipist builders like Fry, Rew and Tucker, and many emancipist tradesmen established their own local businesses to service the building boom of the 1830s. Between 1835 and 1850, a significant social shift occurred in the social status of the licensees of local public houses, who changed from farmers like Thomas Fleming and John Connell, or free settlers like John Dickenson, William Saddler, John Broad, and Prudeaux Watson, to aspiring emancipists. Former convicts Thomas Tucker, David Solomon, Thomas Hughes, Charles Englebert and John Duxberry all became licensees of local inns in this period.<sup>45</sup>

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<sup>44</sup> D.C. Shelton (ed), *The Parramore letters: letters from William Thomas Parramore, sometime private secretary to Lieutenant Governor Arthur of Van Diemen's Land 1823-1825*, Epping, Privately published, 1993, pp. 23-34.

<sup>45</sup> TRE47, AC848/1, LC47, AOT.

The social status of small free-arrived traders became more doubtful as a result. Consequently some convict servants felt sufficiently empowered to challenge the social status and moral superiority of their masters. James Thompson, a storekeeper, had trouble supervising his newly arrived female convict servant Mary-Ann Woodcock who had formed a relationship with John Beckett, another of his convict employees. After seeing them both drunk in the street one afternoon, he ordered them home and complained to the magistrate that Beckett “shook his fist in my wife's face and said he did not care a damn for any of us. He said he could get 20 pounds while I was getting 20 farthings.” Thompson was sure that “an improper connection” had started between Beckett and Woodcock who had only recently been assigned to him because Beckett bought the woman clothes. Thompson was also sure the man was running an illegal business of some sort on the side as he once “threw down a handful of notes” and was “in the habit of getting drunk and abusive.” At his wits end, Thompson admitted to the magistrate that “the woman put me in such a position last night that I believe I called her a bitch.”<sup>46</sup>

Gavin Hogg, a publican in Campbell Town, also felt aggrieved that Jane Lowig, despite being drunk and abusive, had challenged the social status of his family. Lowig had been drunk and staggering and fell over a saucepan. When challenged by his wife she said “she had not come here she'd been sent here and a great deal more, she told my wife she was a d---- infernal liar - She swore she would not do anything and wouldn't stop in the house, and declared she was a great deal better brought up than any person in the house.”<sup>47</sup>

These types of exchanges between masters and their convict servants suggest that the institution of transportation did more than just create a colonial working class. Many working class convicts were just as ambitious as their employers and were confident enough to assert their skills and challenge class boundaries; the balance of power

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<sup>46</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 28/8/35. Trials of Mary Ann Woodcock and John Beckett.

<sup>47</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 6/10/35. Trial of Jane Lowig. Lowig received 3 months at the washtubs at the House of Correction for the outburst.

between masters and servants was constantly being challenged in an under supplied market that gave an advantage to female domestic servants.

### **Chapter 8: The Clash of Cultures: neither mothers nor whores.**

“An utter abomination...they contaminated all around them.”<sup>1</sup> While cultural concerns about the sexual and social behaviors of female convicts may have dominated official and settlers’ attitudes to them, the chapter will also look more broadly at their criminal behavior. It will argue that punishment and patriarchal chivalry towards women were incompatible, although the two attitudes existed uncomfortably side by side amongst the settler men and magistrates. The local lower courts were the stage where these conflicting responses met. The chapter will conclude by exploring which groups of settler men charged their female convicts with misdemeanors and the ways magistrates responded to particular charges by the types of punishments they inflicted, especially incarceration in the House of Correction.

Convict female domestic workers lived in the same house as their employer’s family and came under closer scrutiny than assigned men who lived in men’s barracks. Their behavior was less deferential than most servants in Britain and a lot of dissatisfaction with them was caused by their everyday manners and their personal activities that were embedded in working class culture and their lack of privacy. Mrs Murdoch caught their first convict domestic lying on her bed “with what she called a yard of clay in her mouth, and drinking a pot of porter, and blowing a cloud” when she entered the servant’s room unexpectedly.<sup>2</sup> Other employers were appalled by their bad language and their quickness to “give cheek” to their mistress.<sup>3</sup> Many settlers thought that female domestics were “depraved” or believed they prostituted themselves to the male farm hands or took a protector as a sexual partner.<sup>4</sup> These individual acts of some female convicts came to constitute a collective picture of the domestic from hell, who would create nightmares for any family who employed her. Some employers conceded that the system itself contributed to the women’s behavior as one confided, “I do not believe that one woman in 1000 has the moral energy to

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<sup>1</sup> Great Britain, Parliament, House of Commons, Select Committee on Transportation, *Report from the Select Committee of the House of Commons on Transportation*, Sir William Molesworth, chairman of the committee, Adelaide, Libraries Board of South Australia, 1967, Vol. 1, p. 118.

<sup>2</sup> *Ibid*, p. 118.

<sup>3</sup> *Ibid*, Evidence given by David Burns, p. 56, See also and Harris, *Settlers and Convicts*, p. 138.

<sup>4</sup> *Ibid*, Evidence given by Peter Murdoch, p. 119 and evidence given by John Russell, pp. 55-56.

resist the temptation she was exposed to in the places she went to.”<sup>5</sup> Yet the majority of settlers still employed female convicts in their homes and apparently had far fewer problems with their attitudes and culture than the popular stereotype allowed. Many also discovered that the free emigrant women who were sponsored to come and work in Van Diemen’s Land seemed very similar in their behavior to the female convicts and that some were “less than respectable”.<sup>6</sup> There was certainly a clash of working class and middle class culture occurring, regardless of whether the female domestic was convict or emigrant.

When looking at the experiences of settlers in the Campbell Town district, it is difficult to find any cases of domestics that fit the above stereotype of female convicts. Only small numbers of the female convicts were brought before the local courts and their offences seem trivial and very much grounded in their working class culture and their need for some time away from their work places. The cases that follow provide an insight into the way that convict and former convict women occupied their leisure time and pursued relationships with men. In addition, they demonstrate the opportunities for leisure taken by women working in villages compared with the surrounding rural districts. Many of the women were charged with being absent without the permission of their employer with the intention of engaging in some of the many forbidden leisure activities that both the convict regulations and the middle class found unacceptable for women.

Convict women who worked in the villages found it easier to slip away for a while. Jane Carr made her intentions clearly known to her employer. She walked out telling him that she was going down into the town to meet a man and get drunk.<sup>7</sup> She was admonished for this impertinence. Hannah Jones received three days in the solitary cell for absenting herself and getting drunk.<sup>8</sup> Margaret Hudson, a ticket of leave servant, was charged with being out after hours without a pass, which earned her two

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<sup>5</sup> *Ibid*, p. 119.

<sup>6</sup> *Ibid*, p. 119. Also see C80/50, *Female Prison Discipline Report*, Hobart, February 1843, AOT, Qu.240 to John Price, Police Magistrate at Hobart, pp.175 – 176.

<sup>7</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, AOT, Trial of Jane Carr, 29 April 1835

<sup>8</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, AOT, Trial of Hannah Jones, 28 January 1835

days in the solitary cell.<sup>9</sup> Women working on farms had fewer opportunities for leisure. Only two women from farms were charged with being absent without leave during the year. One had slipped away from a farm to spend the day in Campbell Town. The other had been found gambling one evening in one of the shepherd's huts.<sup>10</sup> However, so few convict women were charged with taking time away from their duties without permission in 1835, that probably a number of women had negotiated some free time or organized leisure activities that were less offensive to their employers. Many other households may not have found the occasional absence worth taking to a magistrate.

Another small number of women took time off to go drinking. The existing literature suggests that drinking formed an important source of recreation for convict women but was an activity which was discouraged by officials and employers. Daniels argues that it was not just because it was offensive to middle class behavior norms; it also led to dangerous and offensive behavior. Drunken women were vulnerable to physical and sexual assault and drinking was often associated with prostitution and brothels.<sup>11</sup> A small proportion of convict women who were frequently charged with being drunk and disorderly also committed other offences while drunk and received increasingly severe punishments. Catherine Owens from Hobart was prosecuted for over 50 drinking and associated charges and had her sentence extended three times between 1829 and 1846.<sup>12</sup> Damousi saw heavy drinking as a symbol of rebellion, an assertion of individual freedom in an unfree system, yet some of the examples she gives suggest women whose lives were chaotic and out of control rather than women who were practicing a type of informed subversion.<sup>13</sup> Smith also reported many examples of heavy drinking with dreadful personal consequences such as rape, beatings and destitution but concluded that a "crucial ingredient in their fate was

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<sup>9</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of Margaret Hudson, 20 May 1835

<sup>10</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trials of Elizabeth Harvey, 12 May 1835 and Ann Harding, 9 February 1835.

<sup>11</sup> Kay Daniels, *Convict Women*, St Leonards, New South Wales: Allen & Unwin, 1998, pp. 85, 155, 237.

<sup>12</sup> *Ibid*, pp. 145, 155.

<sup>13</sup> Joy Damousi, *Depraved and disorderly: female convicts, sexuality and gender in Colonial Australia*, Cambridge, Cambridge University Press, 1997, pp. 83-84.

their own character”.<sup>14</sup> This is a harsh judgment that probably would have been endorsed by many of the women’s contemporaries but doesn’t take into account what later generations came to know about the cumulative effects of alcoholism, homelessness and despair and the difficulty that convicts would have trying to break out of such a cycle. Some convict women may have been unable to control their drinking, but no evidence of this was found in the Campbell Town bench book. For the majority it appeared to be a controlled covert activity and it was unlikely that many masters knew a female servant was drinking unless it interfered with the woman’s ability to work well, or incited her to violence or abusive language. Some employers were prepared to excuse periodic drunkenness particularly when associated with weekends or traditional working class holidays like harvest festivals and Christmas. It is likely that a great deal of moderate drinking amongst women workers went unnoticed.

While it is not possible to gauge the level of private drinking that existed, public drunkenness as expressed in court charges was low amongst local women and suggested that convict and emancipist women were not frequently intoxicated. Only six assigned female convicts were charged with being drunk and disorderly during 1835. Four of these were women who were assigned to publicans and so had more opportunities to obtain liquor than many. None of the women were charged more than twice during the year, and in all cases the magistrates treated the charge as a trivial incident, either admonishing the woman, or ordering several days in solitary confinement. Such a small number of charges suggests that assigned women in the district moderated their drinking to acceptable levels. Being “tipsy” was a term sometimes used in the local court to suggest mild intoxication for both men and women, a state which appeared to be more acceptable to the court and quite different from being drunk and disorderly.

Public drunkenness was also low amongst women who were free by servitude or held tickets of leave. Being drunk and disorderly was a minor breach of the peace and more of a nuisance to the sober inhabitants of the villages than a danger. Six free or

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<sup>14</sup> Babette Smith, *A Cargo of Women, Susanna Watson and the convicts of the Princess Royal*, Kensington, New South Wales University Press, 1988, p. 171.



ticket of leave women were charged with drinking offences during the year and all received the customary fine of 5/-. None of these women were frequently drunk in a public place. Most had only two drinking offences for the year; the others had three or four each and had to find sureties to guarantee their future behavior. If these women continued to drink heavily, then they did most of their recreational drinking at home rather than at the local inns. However, three convict men were charged with assaults against women during the year and although two of the assaults occurred in public houses, it is not certain from the charges whether any of the men or the two convict women involved, were drunk at the time.<sup>15</sup>

Some emancipist women were not welcome in the local public houses because of their violent behavior. Two such were Jane Davies and Kate Dyster. Both were married women who arrived with a man at Heaney's inn early one evening, expecting to continue their drinking. Heaney went into the tap room to turn them out as soon as he heard they were there. They resisted violently by trying to bite him and hitting him with their fists. Even the constable who was called refused to try and arrest them until after more assistance arrived. Heaney complained that Davies threw a candlestick at him when she was in the tap room and that Dyster made her escape from the constables and "broke a pane of glass in the front door."<sup>16</sup> The magistrate simply reprimanded the women and dismissed the charge. Rowdy and even violent behavior from women in public did not always attract a sentence, especially if they were free women. Despite their reputations, this was the first and only charge against the two women for the year.

Although the middle class rejected the sight of women being drunk in public as uncouth and unfeminine, the local magistrates treated it as a trivial offence. The very few assigned convict women who were charged received a few days solitary confinement at worst or a reprimand if this was a first offence or infrequent. Free women received either a caution or a small fine. Although the occasional woman was

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<sup>15</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trials of Samuel Robinson, 29 April 1835; Thomas Auchinclose, 8 December 1835 and John Rowley, 21 December 1835.

<sup>16</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trials of Jane Davies and Catherine Dyster, 1 July 1835

seen drunk on the streets, there were no women who were frequently arrested for this offence in the district. Only one woman was arrested four times for being drunk and these were on two consecutive nights in January and March, suggesting that she had been on a couple of drinking sprees. The court details did not provide any information about whether these were episodes of recreational drinking or responses to grief or hardship. She simply attracted the usual 5/- fines and was finally required to provide a surety for her future good behavior. She did not offend again that year.<sup>17</sup>

Public drinking in respectable inns was only a small part of the possible recreational drinking available to the convict and free population. ‘Sly grog’ huts existed in the villages and on farms, usually managed by emancipists, where men and women could obtain rum or wine and settle in for an evening, or even several days of convivial company, gambling and drinking. In describing some of these huts, one traveler commented acidly that many of the people who frequented these huts “may seem generally intoxicated and always idle, the huts continuously echoing with boisterous mirth and resorted to by all the suspicious characters in the neighborhood.”<sup>18</sup> Drinking with friends outdoors was popular too. One assigned convict wrote back to an old friend in England regretting that he couldn’t have a beer under a furze bush with him as beer was rarely drunk in the colony but “I could find a wattle bush and a bottle of wine for a shilling.”<sup>19</sup> Many working class people regarded a little liquor as a tonic, which in moderation did them good.<sup>20</sup> A lot of rowdy drinking was done in private huts and houses and police were almost never called unless they received reports of a fight or a particularly unpleasant incident of domestic violence. Drinking was not exclusively the recreation of convicts: Ellen Viveash a magistrate’s wife on the Isis River, was critical of her neighbor Marianne Sutherland, whom she blamed for raising her daughter carelessly due to her drinking

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<sup>17</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, AOT, Trials of Margaret Hill, 12 January 1835, 13 January 1835, 13 March 1835, 14 March 1835.

<sup>18</sup> Edward Curr, *An Account of the Colony of Van Diemen’s Land principally designed for the use of Emigrants*, London, George Howie, 1824, pp. 39-40.

<sup>19</sup> Harley W. Forster, *The Dillingham Convict Letters*, Melbourne, Cyprus Books in association with the Victorian Historical Association, 1970, p. 22.

<sup>20</sup> *Ibid*, p. 20.

habit.<sup>21</sup> Local police acknowledged during one rare prosecution of landowners' sons, that they generally overlooked the drunken sons of the middleclass farmers, in deference to their social status.<sup>22</sup> Drinking was very much an offence prosecuted against the working class, but rarely against the middle class.

Local publicans generally cooperated with police as any likely conflicts between working class drinkers and local police could affect their ability to renew their annual license. In this district in 1835 over thirty charges of breaching the Licensing Act or harboring were laid against publicans and fines of £10 were common.<sup>23</sup> Because of this, local publicans banned from their premises any convict likely to cause trouble by becoming drunk or a nuisance; although in certain public houses some well behaved convicts would be served in the back yard.<sup>24</sup> Although it was never totally stamped out, both police and innkeeper vigilance played a significant role in reducing convicts' access to liquor in public houses in this district. Of course, this in turn encouraged the business of sly grog shops and the illicit sale of liquor by unlicensed suppliers in the villages and on farms.

A sentence of transportation in effect, sentenced young women to an extended period of enforced celibacy. They were put out to work, mostly refused the right to marry and expected to engage in no sexual relationships with men until they had served their time. This could take from seven to fourteen or more years. This differed substantially from the more open working class sexual behavior in which women sometimes partnered in their late teens especially in rural areas, where pre-marital sex and pregnancy was often the trigger for marriage.<sup>25</sup> In the large urban centers it

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<sup>21</sup> Pamela Statham (ed), *The Tanner Letters a Pioneer Saga of Swan River and Tasmania*, University of Western Australia Press, 1981, p. 87

<sup>22</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trials of Robert Bayles, William Hedlam, John Hedlam and Barry Cotter, 10 April 1835.

<sup>23</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, *passim*.

<sup>24</sup> Richard Heaney of the Tasmania Inn in Campbell Town and John Dickenson of the Robin Hood Inn in Ross had the most convictions for harboring or breaching the Licensing Act.

<sup>25</sup> Barry Reay, *Rural England: Labouring Lives in the Nineteenth Century*, New York, Palgrave McMillan, 2004, pp. 173, 189, and June Purvis, *Hard lessons: lives of working-class women in nineteenth-century England*, Minneapolis, University of Minneapolis Press, 1989, pp. 163, 169.

became a problem for young pregnant women who were abandoned, although it was unlikely to permanently exclude these women from marriage.<sup>26</sup> During economic downturns, some women occasionally offered themselves for paid sex in between jobs or to supplement their income.<sup>27</sup> The conduct registers of quite a few of the female convicts in Van Diemen's Land noted that the women had been 'on the town' for several months, or at various times prior to their convictions. This too, was unlikely to permanently exclude working class women from a later marriage.<sup>28</sup>

Cases from the Campbell Town bench show that, despite the differences of opinion between the middle and working classes about appropriate sexual behavior for women, few employers brought cases against their female servants for engaging in casual sex in their leisure or working hours. When they did, the magistrates often regarded the charge as trivial and dismissed it with an admonishment. This inaction from local employers may have occurred because of the risk of losing the bond of £20 they had to post with the Convict Department that guaranteed they would not permit a convict woman to be absent from their home for even one night.<sup>29</sup> Either some middle class employers accepted that some degree of sexual behavior amongst their female servants was tolerable, or growing numbers of female convict servants in rural areas were choosing to restrict their sexual activity.

In most local cases of suspected or actual sexual behavior, only women were charged and they generally received light sentences from the magistrates. The magistrates heard five cases against assigned women who were discovered with men in the evening. One received a reprimand and the others between one and seven days in solitary confinement. Ann Jones a ticket of leave holder was reprimanded for entertaining a man. Her master interceded with the magistrate on her behalf before

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<sup>26</sup> Ginger Frost, *Promises broken: courtship, class and gender in Victorian England*, Charlottesville, University Press of Virginia, 1995, p. 148 and Alan Kidd, *State, society, and the poor in nineteenth-century England*, New York, St Martins Press, 1999, pp. 35-37.

<sup>27</sup> Smith, *A Cargo of Women*, p. 167.

<sup>28</sup> Daniels, *Convict Women*, pp. 188, 194, 204-205 and Smith, *A Cargo of Women*, pp. 167, 175 ff. provides numerous examples of women from the *Princess Royal* who had sometimes worked as prostitutes but married after their sentence was served.

<sup>29</sup> James Ross, 'An essay on prison discipline in which is detailed the system pursued in Van Diemen's Land', *The Hobart Town Almanack*, Hobart, James Ross, 1830, p. 77.

sentencing which indicated he did not want her removed from his service.<sup>30</sup> Charlotte Hackwood was discovered drunk in Campbell Town one evening with a man also employed by her master. She spent seven days in solitary for this.<sup>31</sup> Catherine Lindsay also received seven days solitary for entertaining a man in her room and as well for refusing to work.<sup>32</sup> Ann Hughes employed by Richard Heaney the publican, received three days in solitary for a concealing a key one evening on the assumption that she intended to go out and meet some of the “strange company” who were staying in the inn that night. She slept in the same room as Heaney’s young children and he used to lock them all in the bedroom at night.<sup>33</sup>

Heaney was more certain of the actions of another servant, Sara Weston. When he returned home unexpectedly from Launceston at four am one Saturday morning, he clearly expected to find that not all was well as he told his two young sons to wait at the back of the house and tell him if anyone came out, while he entered the parlor through an unfastened French window where he saw two people sleeping on the sofa. He left quietly, took a light and checked the guest and servants’ bedrooms. Weston was absent from her room and as Heaney returned downstairs he was met by his young son shouting: "Father, father, George the shoemaker has run out of the house with nothing but his shirt, carrying a bundle of clothes". His older son had tried to speak to the shoemaker who told him he couldn’t stop! Heaney told the magistrate that he “then went into the parlor and found (Weston) on the sofa sleeping where I had seen two persons on my first entering the house. This was not her proper place for sleeping. I am confident there was another person in bed there when I came in”.<sup>34</sup> Weston received one day in the solitary cell for this incident, a light sentence probably because the magistrate could only infer that the two had sexual intercourse.

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<sup>30</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, AOT, Trial of Ann Jones, 28 December 1835.

<sup>31</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, AOT, Trial of Charlotte Hackwood, 26 November 1835.

<sup>32</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, AOT, Trial of Catherine Lindsay, 19 September 1835.

<sup>33</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, AOT, Trial of Ann Hughes, 23 January 1835.

<sup>34</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, AOT, Trial of Sara Weston, 18 May 1835.

However, three convict women were sentenced to be returned to the House of Correction for pursuing relationships with men. Their masters were all local justices of the peace. The charges against them, as recorded in the bench book, did not appear to be substantially different from the previous ones which had attracted only a reprimand or several days in solitary, yet their sentences were much harsher than those given to other women on similar charges. These employers appeared to have very different views about tolerating courting relationships between their female servants and men. Major Gray charged Eliza Orrell with being absent all night. She was returned to second class at the House of Correction and was reassigned.<sup>35</sup> Captain Wood charged Margaret Laurie with "indecent and improper conduct by harboring and secreting a man in a bedroom adjoining the kitchen being there seen by Mrs Wood, holding the door shut with both hands". Perhaps it was the distress the incident caused Mrs Wood that merited a sentence of fourteen days in solitary and six months to be served at the House of Correction.<sup>36</sup> Laurie had arrived on the *Sovereign* in 1827 with a life sentence. She had already served eight years in the colony, yet was still restrained from forming relationships with men and was harshly punished when caught.

Richard Willis another magistrate, charged Mary Magee with being out after hours in the hut of one of his convict farm hands, George Demper. Initially Magee was sentenced to two days in solitary and Demper was not charged. But later that month the overseer found them both in the shrubbery while he was doing his nightly check of the men's huts. The overseer also found potatoes in Demper's hut which Willis argued were stolen. Possibly the two servants had started a more permanent relationship. This time, both were charged with being out after hours and stealing potatoes. Magee was sentenced to six months in Crime Class and Demper received twelve months with hard labour with the Sorell Rivulet road party.<sup>37</sup> In this instance the case was built around the theft of potatoes, rather than the sexual relationship between the two assigned servants. Local magistrates may have prosecuted such

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<sup>35</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of Eliza Orrell, 21 February 1835

<sup>36</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of Margaret Laurie, 29 December 1835

<sup>37</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trials of Mary Magee, 3 February 1835 & 25 February 1835, & George Demper, 25 February 1835.

cases against their own servants and asked for harsh punishments as it reflected badly on their respectability and social position to allow their female servants to be sexually active.

The seemingly more serious charge of prostitution also received mild responses from the magistrates. The Reverend Mackersey charged Ann Kelly his female servant, with being discovered “in an improper situation on the town with a man”, which was a euphemism for soliciting men for sex. Kelly received three days in solitary for this.<sup>38</sup> Maria Dowling, employed by Mr Sadler a publican in Ross, was also found “on the township for improper purposes”. Mrs Barton the proprietor of a recently opened brothel, had recruited Dowling to work some of her leisure time in her establishment. Dowling received ten days in solitary and Mrs Barton who held a ticket of leave, was sentenced to twenty one days in Crime Class.<sup>39</sup> Alicia Wynn was the only other woman charged with prostitution to receive a custodial sentence. She was charged with being drunk and disorderly and ‘on the town’ at six o’clock one morning. She was a convict servant at Heaney’s inn, and as such was exposed to the availability of liquor and had opportunities to meet men. She received a sentence of two months at the washtubs at the House of Correction in Launceston, the last seven days to be served in solitary.<sup>40</sup>

These were the only four identifiable charges related to prostitution that were heard by the magistrates in 1835. This suggests that it was relatively easy in small rural villages to identify and close down brothels or to catch women who were regular streetwalkers. There were too many evening police patrols and prying eyes who would report these types of activities. It was more likely that the incidents of paid sex that took place in the small villages were *ad hoc* arrangements between men and women who met each other around the village during the day or in places like sly grog huts or public houses at night. This may support the type of inferences made about women who were found in the company of men at night. If brothels and

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<sup>38</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, AOT, Trial of Ann Kelly, 28 December 1835

<sup>39</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, AOT, Trials of Mary Barton, 21 March 1835 & Maria Dowling, 21 March 1835.

<sup>40</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, AOT, Trial of Alicia (Elizabeth) Wynn, 14 January 1835

streetwalking were systematically shut down when they were discovered, then suspicion would fall on convict women out at night illegally. No men were charged with meeting a woman at night and convict women, who were found with men, were likely to receive a light sentence if the offence was infrequent.

The low numbers of reported instances of female convicts being absent without leave, drinking, meeting men for sex and prostitution suggest a very different profile of the average female convict in a rural area from the public stereotype that existed. But there were other reasons why offences involving sexual and social behavior may have been low amongst the emancipist and convict women of the district or even in the towns. A major shift in social behavior had been happening in Britain since the 1790s. The emerging middleclass claimed the virtues of sobriety, thrift, industriousness and a Christian morality that was centered on the family and enforced strong prohibitions against sexual behavior outside marriage, especially for women.<sup>41</sup> By comparison, working class men and women were sometimes regarded as inappropriately sexually active, lazy and hostile to the discipline of factory working hours, illiterate, spendthrift, drunk and without a religious faith.<sup>42</sup> It is unlikely that many of the working class, except those suffering the most extreme poverty, were as hopeless as the stereotype suggests. Instead, a continuum of working class behaviors existed, that in varying degrees came to absorb many middle class behavioral traits introduced by Methodist, Unitarian and Baptist missionaries to their working class followers.<sup>43</sup> Other successful working class families also adopted behaviors that were modeled on creating economic security for the family group. Self improvement became a high priority for many sections of the working class, as for the middle classes.<sup>44</sup> In the Campbell Town district, as in other parts of the colony, there were likely to be working class convicts who adopted some of the personally advantageous behaviors that were taking hold of sections of nineteenth century British society.

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<sup>41</sup> Alan Kidd, *State, society, and the poor in nineteenth-century England*, New York, St Martins Press, 1999, pp. 53-57.

<sup>42</sup> *Ibid*, p. 18.

<sup>43</sup> E.P. Thompson, *The Making of the English Working Class*, Middlesex, Penguin Books reprint, 1977, pp. 385-411, *passim*.

<sup>44</sup> Eric Hopkins, *Working-class self-help in nineteenth-century England: responses to industrialization*, New York, St Martins Press, 1995, pp. 182-185.



The possibility that considerable numbers of convict women chose either to restrict their sexual activity, or were controlling their fertility while under sentence, is supported by the low number of cases of pregnancy that were reported to the magistrates in 1835 in the district. Working class women in England had been using techniques to control their fertility since the early 1800s after abortion became illegal. Books about methods were available especially in the factory areas and particularly around Manchester in the 1830s.<sup>45</sup> Abortion was reputed to be common amongst convict women in the colonies.<sup>46</sup> Out of around ninety convict women working in the district in 1835, only two identifiable cases of pregnancy and a possible third were reported and all the women were returned to the House of Correction at Launceston. The houses of correction served as lying in hospitals for pregnant convicts, where they could wait the birth of their child and live after the birth, although they were then moved to punishment class. They would be assigned after their child was three years of age and sent to an orphanage, established by the administration for this purpose. Jane Brisbane, who had worked on a farm owned by Henry Keach close to Ross, was returned by her employer as she was pregnant and could no longer work.<sup>47</sup> Keach had only recently arrived from England with his family and settled near Ross. Mary Sutherland was returned by George Cocks, an assistant foreman with the Ross Bridge gang. Cocks asked the magistrate to record that she was of good character.<sup>48</sup> Major Gray the local magistrate for the St Pauls Plains area, returned Jane Raydon to the Crown “under peculiar circumstances”, a phrase which may have been a way of concealing a pregnancy thereby sparing the Gray family any embarrassment.<sup>49</sup> This appears a relatively low rate (3%) of pregnancy for female convicts in the district, but is supported by Robson’s claim that less than 11% of female convicts in Van Diemen’s Land gave birth while unmarried

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<sup>45</sup> David Kent & Norma Townsend, ‘ “Female Convicts”: An Accurate View of Working Class Women?’, *Labour History*, 65, Nov 1993, pp. 186-187.

<sup>46</sup> Daniels, *Convict Women* pp. 86, 136.

<sup>47</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, AOT, Trial of Jane Brisbane, 27 November 1835

<sup>48</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, AOT, Trial of Mary Sutherland, 27 February 1835

<sup>49</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, 1835, AOT, Trial of Jane Raydon, 9 August 1835.

and serving their sentence.<sup>50</sup> The possibility that around 90% of female convicts in Van Diemen's Land did not give birth while single and under sentence suggests that many women were restricting their sexual activity or controlling their fertility. Either way convict women seem far from promiscuous.

While the reported rates of pregnancy seem low in the district in 1835 there remains the possibility that some other convict domestic servants were becoming pregnant but concealed the situation or were not reported. While this is possible, little evidence could be found to support the contention in the literature. Bowd found that in New South Wales only 15 women, (6.2%) of her sample of 241 female heads of families including single mothers, were working as assigned or ticket of leave convicts for employers.<sup>51</sup> A proportion of these women may have placed their children in an orphanage while they worked. Smith found, that not only were employers reluctant to take women with children, but some did so and afterwards arranged for the children to be sent to the orphanage, with or without the mother's consent.<sup>52</sup> Daniels argued that women were returned to the government as employers did not want to keep a pregnant woman or one with an infant as they would be unable to work efficiently.<sup>53</sup> The evidence she provides is anecdotal from several comments made by settlers. However, it is not possible to gauge whether this was done universally, or to what extent some employers may have retained pregnant convict servants, or for what reasons. The *Blue Books* data for births in the Campbell Town district are not helpful in this regard either. In Table 8.1 official statistics show that between 1834 -1837 there were only between 29 and 38 births annually.<sup>54</sup> However, these records do not attempt to distinguish between births to settler wives, emancipist or convict wives, or single female assigned convicts. As these were probably only the births registered through baptism, some additional births were likely to have been excluded. Very few emancipist and convict couples recorded births through baptism. Atkinson estimated that only 18% of convict couples who

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<sup>50</sup> Robson, *Convict Settlers*, p. 135. Robson claims all births to unmarried assigned women were recorded in Van Diemen's Land, but alas does not specifically identify these records.

<sup>51</sup> Lynne Bowd, 'On Her Own: Women as Heads of Family Groups in the 1828 Census', *Australian Historical Studies*, No. 107, 1996, p. 307.

<sup>52</sup> Smith, *Cargo of Women*, pp. 53, 58.

<sup>53</sup> Daniels, *Convict Women*, p. 95. See also LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of Jane Brisbane, 27 November 1835.

<sup>54</sup> Blue Books, CSO 50/8-12, 1833-1838, AOT.

married in 1838 in Van Diemen's Land had a child christened within two years of the marriage.<sup>55</sup>

Table 8.1: Births and marriages in the Campbell Town police district 1834-1838.

	1834	1835	1836	1837	1838
Number of births	33	29	No data	29	38
Number of marriages	58	44	No data	15	No data

Source: *Blue Books*, CSO 50/8-12, 1834-1838, AOT.

Official records in magistrates' bench books of the number of pregnant assigned servants returned to the government are still the best indicator of the numbers of assigned women falling pregnant in a district. Although some doubts remain about whether some employers did not report their pregnant convict domestics, this would have been to risk the good reputation of their own family. For these reasons it is likely that the three pregnant assigned women who were returned to the government in 1835 represented the numbers who actually fell pregnant.

While there is evidence that female convicts found it easy to obtain permission to marry during the early 1820s, the marriage rates amongst serving women convicts in Van Diemen's Land declined rapidly after Arthur's arrival.<sup>56</sup> In the General Muster of 1835, only 198 out of the 1900 serving convict women were recorded as married.<sup>57</sup> This represented only 10% of the convict women. This suggests that permission to marry was only rarely given to serving convict women, and is confirmed by a closer look at Table 8.2. The *Lady of the Lake*, the *Eliza* and the *Mellish*, arrived at Hobart between November 1829 and June 1830, yet only 12 % of the convict women from these boats had gained permission to marry (38 of 311 women) during their first five year's service in the colony. The 21 women assigned

<sup>55</sup> Alan Atkinson, 'Convicts and courtship', in *Families in Colonial Australia*, Patricia Grimshaw, Chris McConville & Ellen McEwan, (eds), Sydney, Allen & Unwin, 1985, p. 29. A convict couple was defined as a couple where at least one of the partners was still under sentence.

<sup>56</sup> Kirsty Reid, *Setting Women to Work*, AHS, p. 10.

<sup>57</sup> HO 10/49, *Female Convict Muster* 31 December 1835, AOT. Married – 112, Assigned to husband – 86 from a total of 1917 women.

to their husbands were married while still serving as assigned women and technically could be removed and reassigned to an employer if they misbehaved. The additional seventeen married women had tickets of leave and so their relationship with their husband was similar to that of free women.

Table 8.2: Distribution on 31 December 1835 for all female convicts landed from the *Lady of the Lake*, *Eliza 1* and the *Mellish* female transports to VDL.

Location of female convicts. (Dec.1835)	Lady of the Lake (arr.Nov. 1829)	Eliza 1 (arr.Dec.1830)	Mellish (arr.Jun.1830)	Total
Assigned to settlers	23	38	51	112
Assigned: Orphan school		1	1	2
Assigned: Govt. House		1		1
Invalid	1	2	1	4
Hospital	1	2	1	4
Dead		2	4	6
House of Correction	11	27	20	58
Jail	2	2		4
Ticket of Leave	16	18	16	50
Free by servitude/pardon	14	3	1	18
Assigned to husband	4	7	10	21
Married (ticket of leave)	3	7	7	17
Women not accounted for ie missing.	4	8	2	14
Total	79	117	115	311

Source: HO 10/ 49, AOT, 31 December 1835, General Muster List of all female convicts and P. R. Eldershaw, *Guide to the Public Records of Tasmania, Section 3, Convict Department*, Hobart, State Library of Tasmania, 1958, p. 55.

Some additional women from the group of 21 freed by servitude or pardoned may also have married, but did so after they were released from their sentence. Even after Governor Arthur's departure, marriage rates amongst convict women under sentence, continued to be low under Governor Franklin's administration. Atkinson argues that in 1838 a total of 422 marriages were recorded in Van Diemen's Land, of which only 188 involved convicts.<sup>58</sup> Even if all 188 marriages included a female convict or ticket of leave female partner, permission to marry was granted to only a very small number of the total female convict population that year, which was in excess of 2000 women, all of marriageable age. Overwhelmingly, female convicts were treated as a

<sup>58</sup> Atkinson, *Convicts & Courtship*, p.19.

necessary labour force, rather than as potential marriage partners while they were under sentence in Van Diemen's Land.

However, Atkinson asserts that only 6% of marriage petitions were rejected by officials in Van Diemen's Land in 1838. If this is so, then other factors may have restricted female convicts' rates of marriage.<sup>59</sup> Some were prevented from marrying as they had declared themselves married on their indents when they arrived. Others may have found it more difficult to meet suitable men as courting was not approved while women were under sentence. There is evidence to suggest that marriage was increasingly regarded as a contract in which the parties would benefit financially and provide friendship and other tangible benefits. Alternatively female convicts may have been far more careful about whom they chose to marry than contemporaries believed. Memorialists rarely mentioned affection, romance or the desire for children, but recommended convict women as "industrious" or "a good manager", while men were recommended as "sober" or "well conducted" or "capable of maintaining a wife".<sup>60</sup>

Even when approved by the Convict Department, around one third of the convicts who obtained permission to marry did not proceed with it. In 1838, 284 couples that included at least one convict were given permission to marry but only 188 (66%) actually married. This pattern was common amongst free couples as well. In Longford 25% of all couples, including free couples, failed to marry after the banns had been read.<sup>61</sup> Culturally marriage was a different type of union in the nineteenth century and many women did not marry at all. Robson estimated that only 60% of convict women eventually married in the colony and Sturma suggested this marriage rate was similar to that in Britain.<sup>62</sup> The 1852 British Census showed that 42% of women aged 20-40 years were not married.<sup>63</sup> It is also possible that numbers of female convicts did not want to bind themselves by contract to marriage but may have preferred to wait until free to choose a *de facto* union or preferred to remain

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<sup>59</sup> *Ibid*, p. 29.

<sup>60</sup> *Ibid*, pp. 22-23.

<sup>61</sup> *Ibid*, p. 26.

<sup>62</sup> Robson as cited in Michael Sturma, 'Eye of the Beholder: The Stereotype of Women Convicts, 1788-1852', *Labour History*, 34, 1978, p. 8.

<sup>63</sup> *Ibid*, p. 8.

single. For a number of reasons it appears that by the 1830s female convicts in Van Diemen's Land had a low marriage rate while under sentence, and that culturally up to 40% of them would not marry after they were freed, although this did not preclude them having *de facto* unions. Molesworth's disgust with convict women in his report in 1838 could have been prompted by the numbers of working class emancipist women who chose to live in *de facto* unions with men, instead of marriage, a cultural practice that was acceptable to the working class, but challenged the middle class cult of respectability and was often regarded by them as a type of prostitution.

A major economic consequence of the assignment system was that convict women's fertility rates were reduced despite the majority marrying or living in *de facto* unions after they were freed. Convict women were mostly aged between eighteen and thirty five years. By removing the ability of around 2000 women to marry and reproduce for anywhere between four to fourteen years during their years of highest potential fertility, the assignment system placed considerable limits on the population growth of Van Diemen's Land.<sup>64</sup> Dr Ross using statistics from the official *Blue Books*, commented in the *Hobart Town Almanack* that there had been static natural population growth in Van Diemen's Land in 1833. Around 500 deaths had been officially recorded for 1833 and only around 500 births.<sup>65</sup> Although the actual number of births could have been higher than this because there was a high rate within the working class of not baptizing and thus recording births, Ross's comments show that the problem of low natural population growth was recognized at the time, even though contemporaries like Ross believed the solution was to import more free women as marriage partners for the disproportionate number of males, rather than encourage convict women to marry while under sentence.

Working class courting, *de facto* and marriage relationships were clearly more complex than the simple stereotype of the promiscuous female convict allows. Much more work needs to be done on the cultural and economic issues of marriage in the colonies for working class women before historians can understand their motivations

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<sup>64</sup> Large numbers of emancipist men, who stayed in Van Diemen's Land, also did not permanently partner and reproduce due to the shortage of females.

<sup>65</sup> James Ross, *Van Diemen's Land Annual Hobart Town Almanack for 1834*, Hobart, James Ross Printer, 1834, p. 41.

for their partnering decisions. Neither should we see all their choices as simple statements of rebellion against nor acquiescence to their servitude as convicts. This is also evident in their decisions to abscond.

Absconding from assignment could be a complex business. For some, running represented the only way of maintaining relationships with their partner. Jane Jones was picked up in Ross in August and charged with absconding from Hobart in July. She had in fact traveled to Ross with her husband William Overall, a free man. Overall was also apprehended on suspicion of felony and agreed to be held in the jail while the police checked with Hobart authorities to see if there was a warrant issued for him. Apparently no outstanding warrant was found and he was released without being charged with harboring his own wife. After some consideration, Jones's charge was modified to "leaving Hobart without a pass to follow her husband".<sup>66</sup> She was sentenced to three days in the solitary cell, but later that year was recorded as assigned to Mr McLeod, a farmer near Campbell Town. Both temporary and permanent relationships with men could create problems for convict women, as their personal relationships were subordinated to the regulations of the convict system, against which even marriage had few claims.

Other women absconded for a variety of different reasons. On her arrival to Van Diemen's Land, Mary Davis was assigned to Captain Serjeantson's remote farm on the South Esk River. She rejected being put to work and was charged with unsatisfactory work by her employer. She absconded in protest.<sup>67</sup> She had only been in the colony a matter of weeks but this type of resistance drew a severe response from the local magistrate. Early resistance had to be crushed in case many other newly arrived women rebelled in this way. She was sentenced to eighteen months in the Launceston House of Correction. Eliza Roberts on the other hand, appeared to be manipulating the system when she absconded from Davidson's farm on the Macquarie River and she behaved "in a disorderly fashion" in the local jail while waiting for her charge to be heard. Instead of being returned to the House of

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<sup>66</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of Jane Jones, 17 August 1835.

<sup>67</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trials of Mary Davis, 8 August 1835 & 29 September 1835.

Correction for reassignment to another employer, she was sent to the wash tubs for a month with the possibility of being returned to Davidson afterwards.<sup>68</sup> Julia Devine, however, served two days in the local solitary cell after abandoning her employer's family during their visit to Campbell Town and slipping off to enjoy a day of leisure round the village by herself. This was a rare opportunity for her, as she usually worked on a farm in the remote St Pauls Plains and had in fact not absconded, despite the charge, but merely been absent without permission.<sup>69</sup>

Elizabeth Davis successfully evaded recapture for a year after absconding the previous November from John Dickinson's Robin Hood Inn at Ross. She handed herself in to the police office in Campbell Town, which suggests she may have remained in the district and been sheltered in a farm hut by a convict shepherd or emancipist.<sup>70</sup> It was unusual for any prisoner to remain free for that long without recapture.

These incidents show the complex and different reasons women had for running: fear of an unknown land; resentment at being forced to work; running off to live with a man; following a husband; wanting a new work placement; preferring to return to jail; or needing some leisure time away from work. Women's motives for absconding were often embedded in their need to normalize their experience and reestablish private and community bonds. Absconding was one way of taking control over their immediate experiences and reasserting individual choice.

Although only three women absconded in the district in 1835, a total of 54 women from across the colony were recorded as absconders in the *Government Gazette* from 1 January 1835 to 30 June 1835. Table 8.3 shows that assigned women absconded at a similar rate from employment (3.7%) to assigned men (3.5%). However, women appeared more successful than men at staying free immediately after absconding. This suggests they had plans of how to travel and where to stay before they

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<sup>68</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of Eliza Roberts, 11 February 1835.

<sup>69</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of Julia Devine, 19 June 1835.

<sup>70</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of Elizabeth Davis, 26 October 1835.



absconded. Less than one third (15) of women who absconded were picked up within a few days of running, compared to over 80% (189) of male absconders. Although the details about where the women hid were not included in official notices, it is likely that some arranged to travel or stay with people they knew. Planning and involving friends, lovers or sympathizers in sheltering them for some time, may have been part of the women's success in avoiding immediate recapture.

Table 8.3: Estimates of absconding assigned male and assigned female convicts in VDL from 1 January 1835 to 30 June 1835.

	Total assigned convicts	Absconded from settlers	Absconded and apprehended within 1-6 days
Assigned Females	1426	54 (3.7%)	15 (27%)
Assigned Males	6475	224 (3.5%)	189 (84%)

Source: *Government Gazettes*, Hobart, 1 January 1835- 30 June 1835. See also Ross, *Almanack*, 1836, pp. 51-52 for numbers of assigned male & female convicts.

Although the majority of women had been transported for theft, very few common law charges were laid against local convict women in 1835, despite their service in settlers' houses which provided them with ample opportunity to steal. Their low rate of criminal activity suggests that many had adopted a position of greater social responsibility while in service or had less need to support themselves through felony. Only three local assigned women were charged with serious theft during 1835. Josephine Dickens was charged with stealing a gun or fowling piece from her employer Benjamin Horne a local farmer and justice of the peace and she was referred to the Quarter Sessions court.<sup>71</sup> Grace Nielson was charged with stealing £8 from a military officer who was staying at the Tunbridge Wells inn where she was employed as a general servant. She received a twelve month sentence in crime class at the House of Correction in Launceston.<sup>72</sup> Louisa Inscipp had several charges brought against her in 1835. The first was for insolence to her mistress, but it was her attempts to get money from a hapless local drinker, Tommy May, that brought her trouble. Mrs. Heaney, the publican's wife, implied that May, a carter, was a pleasant

<sup>71</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of Josephine Dickens, 20 February 1835.

<sup>72</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of Grace Nielson, 10 February 1835.

but hopeless case and under her protection at the pub where she kept an eye on him to make sure the locals didn't take advantage of him. Inscipp was caught there trying to get May to give her £5. She was evicted by the publican and charged with disorderly conduct. Later that month she managed to get May to give her £1, but was charged by May with obtaining it fraudulently, possibly on the instigation of Mrs. Heaney. Inscipp was sentenced to six months in Crime Class.<sup>73</sup>

Theft and assault were the most frequent charges brought against emancipist or ticket of leave women, and convict women who were assigned to their husbands. Convict wives had the same levels of everyday freedom as any free wife with the exception that they were required to reside within certain police districts. They were unlikely to be charged by their husbands for laziness, bad language or drinking. However, other people were free to bring them before the magistrates and sometimes did so if they felt they had a case. Mr Appleby a local shop keeper, charged Catherine Berry with beating his convict shop boy. Will Dyer her husband, got drunk and confronted Appleby and threatened him for jeopardizing his wife's freedom after she was sentenced to two days solitary confinement in the local jail.<sup>74</sup> More seriously Charlotte Jarret was removed from assignment to her *de facto* husband John Jarret, after she was charged on suspicion of stealing £5. The investigation showed the Jarrets were not married and she was sentenced under her own name as Hackwood and was reassigned to a local farmer.<sup>75</sup> The charge of stealing the money was not pursued.

Within the local emancipist community two freed women were charged by emancipist plaintiffs. Catherine Burns, along with a co-accused, was sent to the Quarter Sessions court to answer a charge of stealing four silk handkerchiefs and Emma Boyce was charged with assaulting Sara Tucker, the wife of a local bricklayer, but the charge was dismissed.<sup>76</sup> In two other more unusual common law

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<sup>73</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trials of Louisa Inscipp, 18 May 1835, 10 August 1835, 22 August 1835.

<sup>74</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of Catherine Berry, 10 October 1835.

<sup>75</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trial of Charlotte Hackwood (Jarrett), 3 August 1835.

<sup>76</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trials of Catherine Burns, 3 July 1835 and of Emma Boyce, 18 September 1835

cases against local women, the magistrate did not support the charges. Ellen Harris and Ellen Kains, who were probably free small holders or emancipist tenants, were both charged in the summer of 1835 with pulling down a dam that Henry Jellicoe a local justice of peace had placed illegally on the Elizabeth River to divert water to his farm. Jellicoe charged them with malicious damage and hounding his land in an effort to intimidate them. The court persuaded Jellicoe to withdraw the charges.<sup>77</sup>

Police magistrate Whitefoord only sent two common law cases to the Quarter Sessions during the course of 1835. Of the rest, two convict women were returned to the House of Correction, one to be reassigned and one to serve a crime class sentence. In addition one woman was sent to the solitary cells for two days. Of the eleven common law charges brought against women, five were either withdrawn or dismissed by the court, suggesting that the local magistrates required higher evidence of guilt to convict in these cases than they did for cases related to moral or work issues. The small number of common law cases brought against both free and convict women provide little evidence to suggest they were either particularly troublesome as a community group or were constant offenders.

Generally the employers in the Campbell town district brought few charges against their female convicts. The two exceptions however were publicans and local magistrates. Publicans paid an annual license fee of £100 and needed to demonstrate that they ran orderly public houses in order to renew their licenses. Furthermore the inns were closely watched in Campbell Town and Ross by the police who patrolled the villages every two hours at night. Fines of £5 and £10 were handed down against publicans if they were caught serving or harboring convicts. Publicans tended to be assigned the less reputable female convicts or ones who had been returned to the magistrate by other local employers.<sup>78</sup> In 1835, local publicans laid eighteen charges against their female servants for being drunk or meeting men or being out after

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<sup>77</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, AOT, Trials of Ellen Harris & Ellen Kains, 13 January 1835.

<sup>78</sup> Penny Russell, 'Lady Franklin: Female Convicts and the Problem of Authority in Van Diemen's Land', *Journal of Australian Studies*, 3, June 1997, p. 36. Franklin explained that the Assignment Board gave wealthiest settlers the most respectable female convicts. See also Kirsty M. Reid, *Work, Sexuality and Resistance; The Convict Women of Van Diemen's Land, 1820-1839*, Thesis for Degree of Doctor of Philosophy, University of Edinburgh, July 1995, p. 201.

hours. Richard Heaney the licensee of the Tasmania Inn in Campbell Town brought seven charges against his female servants while other local publicans brought three or fewer. The police magistrate mostly admonished the women or handed down sentences of several days in solitary. Arthur acknowledged that public houses were unsuitable locations for female convicts when he ceased assigning them there in mid 1835.<sup>79</sup>

Local magistrates with the exception of Henry Jellicoe and Charles Viveash, brought ten charges against their female servants.<sup>80</sup> They were familiar with the magistrates' courts and used them as a strategy to discipline or remove their own unsatisfactory servants. They were probably under pressure to be seen to run very respectable households too. By comparison, only six local farmers, all who lived close to either Ross or Campbell Town, chose to bring convict women before the local court, as well as four local businessmen, who ran commercial establishments in either town.<sup>81</sup> But the majority of district farmers and their wives, appeared to have little need to use the local court to discipline their female servants.

While absconding satisfied the personal needs of female convicts, on the other hand, the imprisonment of women convicts was concerned with the needs of their captors: the convict department officials and their agents- the police magistrates. Table 8.4 lists the 17 local women who were sentenced to the crime class in prison in 1835 and another four women who were returned to the Crown. Collectively, in official eyes, they were the group of recidivists and rebels. Imprisoning them was not just an attempt to reform them; it was a message to the many generally compliant women convicts in the district that they were at risk of following them should their trivial disobediences continue.

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<sup>79</sup> *Cornwall Chronicle*, 30 May 1835, Convict Department Notice that female convicts will no longer be assigned to public houses.

<sup>80</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT. The following justices of the peace brought charges against their female convict servants: Capt. Serjeantson (3), Richard Willis (2), Geo. Harrison (2) former JP, Ben. Horne (1), Major Gray (1), Capt. Wood (1).

<sup>81</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT. Farmers who brought charges were: David Murray (2), Henry Keach (1), John McLeod (1), George Alston (1), Will. Davidson (1), and Capt. Francis Allison (1). Businessmen were James Thompson (2), James Hume (1), George Emmett (1).

The local incarceration rate reveals another aspect of the severity of punishment meted out to women. The police magistrate only tolerated a small number of trivial offences from each woman. Those who appeared before him several times, or whose conduct records showed a history of minor defiance, were likely to be jailed. Only two of the women jailed committed offences for which free people could be charged. All other offences punished by jail time were only for offences against convict regulations. It is not surprising that most emancipist women, even those with long lists of offences on their conduct registers, disappeared from the public records, by not re-offending, after their release.<sup>82</sup>

The imprisonment rate for women convicts in the district was high but probably lower than the overall imprisonment rate for women across the colony. This suggests that convict women were generally subject to incarceration for petty disobedience. During 1835, twenty one local women were returned to the House of Correction, either as charged, or they were returned to the Crown by their employer, or were pregnant. This was around 24% of the 88 women convicts employed in the Campbell Town police district. In December 1835, the annual muster for the whole colony showed that 24% (468 women) of the 1917 women convicts who were counted in the muster, were incarcerated during that month but higher than this if the whole year is taken into account.<sup>83</sup> This general incarceration rate for women was somewhat lower than the punishment rates for men but still very high considering the trivial nature of their offences. By comparison, around 31% (4896) of 15724 male convicts were incarcerated in road parties, chain gangs or penal settlements at any one time.<sup>84</sup> Convict authorities had a greater range of more severe physical punishments available to inflict on men than on women but both sexes experienced high punishment rates for non-compliance with the convict regulations.

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<sup>82</sup> Hirst, *Convict Society and its Enemies*, p. 120.

<sup>83</sup> *General Muster List*, HO 10/ 49, ATO, 31 December 1835.

<sup>84</sup> Ross, *Hobart Town Almanack*, 1836, pp. 51-52. Annual Return of Convicts for 1835.

Table 8.4: Female convicts from the Campbell Town Police District sentenced to the House of Correction or returned to the Crown, 1835.

Common Law	Work Related	Drinking	Absconding	Relationships with men	Other
Inscipp, fraud, crime class	Woodcock, returned to crown	Dowling, 1 month wash tubs	Davis, 12 months crime class	Orrell, returned to crown	Brisbane, pregnant, returned to crown
Nielson, stole £8, 12 months crime class	Jones, 1 month wash tubs		Dowd, 18 months crime class	Barton, 21 days crime class	Sutherland, pregnant, returned to crown
	Lowig, 3 months wash tubs			Harding, 1 month, crime class	Raydon, possible pregnancy, returned to crown
	Todd, 6 months crime class			Wynn, 2 months crime class	Jones, misleading accusations. 6 months crime class.
	Young, 6 months, crime class			Laurie, 6 months, crime class	
	Galloway, 8 months crime class			Magee, 6 months, crime class	

Source: LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT.

By 1830, Van Diemen's Land existed in a strange time warp in regard to official discipline and punishment compared to Britain and Europe. Public executions were still carried out in public view in Hobart and Launceston during Arthur's administration and people were encouraged to gather and watch despite changing practice in Europe.<sup>85</sup> Prisoners were forced to perform public works, building all types of infrastructure as punishment. Torture in the form of flogging was common for male prisoners as was working in irons. Head shaving and hair cutting of women was still carried out. Stories circulated of women in prison being gagged or forced to wear iron collars.<sup>86</sup> The treadmill and stocks were still used for both sexes. Conspicuous prison dress was forced on men in road parties and chain gangs, and also on women in the House of Correction and armed guards accompanied prisoners

<sup>85</sup> Richard P. Davis, *The Tasmanian Gallows*, Hobart, Cat & Fiddle Press, 1974, pp. 13-14.

<sup>86</sup> Daniels, *Convict Women*, p. 105.

to destinations or supervised them in work parties. These practices had started to disappear in Britain and Europe in the early 1800s as criminal codes were reformed and punishment shifted from the terror of inflicting pain and humiliation on the body to incarceration.<sup>87</sup> Instead, emphasis was placed on imprisonment with the deprivation of privileges, solitary confinement and reduced food rations, while cooperation brought rewards and better conditions.<sup>88</sup>

So great was the need to control the large numbers of convicts in Van Diemen's Land, that both the old brutal ways and the new manipulative forms of incarceration existed simultaneously. In the 1830s, both a new female prison in Launceston was opened as well as the penal station at Port Arthur, where solitary confinement in the Model Prison and incarceration in the dark cell would later be introduced, which was as psychologically brutal as physical punishment. Incarceration, humiliations, the treadmill, the stocks, solitary confinement and reduced food were regarded as particularly appropriate for uncooperative women prisoners as it was argued that these punishments were less physically violent. The whole paraphernalia of control was held in reserve, always ready to be used against women when needed.

Punishments of these types, and conversely the growing patriarchal chivalry towards women were quite contradictory ways that colonial society responded to women. The formidable public myth of the debased female convict may have been needed by magistrates and officials to justify their punishments of convict women and to distance themselves from the working class culture that they believed made women impure and unworthy of the normal social protections. However, not all male settlers could tolerate the official punishments given to female convicts and some were troubled by the contradictions in the way their society treated free and bond women. One wrote that: "The imagination of Englishmen at home cannot even conceive the degradation and consequent deterioration to which their country-woman are thus subjected in the existing Penal Colonies..."<sup>89</sup> By naming convict women as "their country-women" Maconochie reinstated them as part of his society's whole

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<sup>87</sup> Michel Foucault, *Discipline and Punish: the Birth of the Prison*, Penguin, 1979, pp. 7-8.

<sup>88</sup> *Ibid*, pp. 10-13.

<sup>89</sup> Alexander Maconochie, *Thoughts on Convict Management and other Subjects connected with Australian Penal Colonies*, London, John W. Parker, 1839, p. 129.

community and forced readers to stop viewing them as outsiders. If one group of middle class women was elaborately protected and supported by his community, how could a different group be punished and further debased by society? He argued that convict women were “accessible to moral influences”, and needed “kindness and solicitude.” They should receive training “in self reliance” and be encouraged to dress in a feminine way as it would assist them to recover their self respect. They should be allowed to engage as servants or wives and even keep pets as this was a “therapeutic activity”.<sup>90</sup> Although his arguments were heavily dependent on inculcating moral virtues and assumed a patriarchal responsibility towards women, his comments also contained a genuine kindness towards convict women that was generally lacking in the public debate about them. “I am convinced that a great many most excellent women might be thus recovered, even out of a class condemned at present to hopeless degradation...and it is almost suicidal for society to act in regard to them as it now does, first inadequately protecting them from the influences of its vices, and then deliberately crushing them under the weight of its contempt.”<sup>91</sup>

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<sup>90</sup> *Ibid*, pp. 131-133.

<sup>91</sup> *Ibid*, p. 133.



## **Chapter 9: The Male Workforce: farm and village labour – working for the Man.**

In the past, historians have emphasized the power of the large land owners who had access to cheap land and convict labour and would draw on kinship networks, influence in London and informal local networks with colonial officials.<sup>1</sup> By comparison, convicts seemed to have few means at their disposal to combat the combined forces of State power and local paternalism. The rule of terror sanctioned by the colonial government in the form of flogging and increasingly brutal penal discipline, seemed enough to force convicts to accede to the conditions of their servitude. This view fails, however, to account for persistent convict resistance to many work conditions imposed on them, especially after the *Bigge Report* attempted to reposition convict labour by tying it to the expansion of the wool industry in both New South Wales and Van Diemen's Land. By encouraging a class of small capitalists to invest in pastoralism and providing a cheap supply of convict labour, the government unwittingly fostered the conditions for a classic class confrontation.<sup>2</sup> This was particularly as the government enforced a contract with the land owners that not only required them to pay for the convicts' keep in exchange for their labour, but also required them to strictly enforce a rigid system of supervision and offer only a limited number of rewards to men and women who showed evidence of reform.<sup>3</sup> Here an economic imperative and a moral one came into conflict, and for most large landowners the need for profit was likely to be the more important of the two.

This chapter examines some of the compromises that grew out of this inherent contradiction. It first seeks to explore the recreational culture amongst male convicts and the way that many employers and their assignees renegotiated the official prohibition of banning access to alcohol. The chapter investigates the supply trail of illegal liquor that circulated in the district and the cash economy that thrived around

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<sup>1</sup> R.W. Connell & T.H. Irving, *Class Structure in Australian History: poverty and progress*, Melbourne, Longman Cheshire, 1992, p. 56.

<sup>2</sup> *Ibid.*, p. 63. See also Alan Atkinson, 'Four Patterns of Convict Protest,' in *Pastiche 1: Reflections in Nineteenth Century Australia*, Penny Russell & Richard White (eds), St Leonards: New South Wales, Allen & Unwin, 1994, p. 75.

<sup>3</sup> Henry Parker, *The Rise, Progress and Present State of Van Diemen's Land with advice to emigrants*, London, 1833, pp. 47-48. Parker provides a description of the onerous supervision landowners were expected to exercise over their convict workers.

it. The complexities of negotiating the daily round of village work and coping with the demands of the agricultural seasons are also explored. While assigned males formed the primary rural workforce in the Campbell Town district, the use of the growing numbers of ticket of leave holders as a supplementary workforce during periods of high labour is also examined. This chapter will conclude by looking at the effects that their presence had on farm labour relations.

Although not all convicts drank, for many assigned workers drinking had cultural meaning. It marked the difference between work time and free time and was often associated with a number of leisure activities which were enjoyed collectively. It was accompanied by gambling, singing, yarning, smoking and reading and was probably almost always present when the men organized the popular pastimes of sparring, cock fighting or dog baiting.<sup>4</sup> Some also used it to gain sexual favors from convict women. These activities grew out of traditional working class culture which was replicated in the colony although it was often restricted to convict quarters, shepherds' huts or other remote spots well away from the employer's house.<sup>5</sup> Such social activities were important in helping to redefine the likes of assigned workers as something other than convicts. For the men, free time on many farms marked a space into which neither their employers nor the system should intrude.<sup>6</sup>

Employers, who had managed farms in Britain, recognized a number of benefits that moderate drinking traditionally provided the rural labourer. Indeed the provision of alcohol was often recognized as an important mechanism for creating a more harmonious work force and most masters turned a blind eye to moderate drinking as long as it did not interfere with the men's work or cause fights.<sup>7</sup> Their convict workers were capable of generating "an internal cultural world" that maintained social links within their class traditions.

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<sup>4</sup> Bruce Hindmarsh, 'Beer and Fighting: Some Aspects of Male Convict Leisure in Rural Van Diemen's Land 1820-40', *Journal of Australian Studies*, Issue 63, 1999, pp. 154.

<sup>5</sup> *Ibid*, p. 16.

<sup>6</sup> *Ibid*, p. 3.

<sup>7</sup> *Ibid*, p. 17.

Although drinking was an important marker of class and by extension convict culture, it was not frequently prosecuted. Table 10.1 shows that assigned men had the lowest percentage (2.4%) of prosecutions for drinking of any male group.<sup>8</sup> This does not necessarily indicate they did not drink, but it does suggest that most assigned men, who drank, did so moderately or did not attract the attention of their employer, or their employer ignored this behavior. A slightly higher percentage of charges (6.8%) were laid against ticket of leave men. Even so, fewer than one convict from the private sector labour force was charged per week with being drunk and disorderly.

Some of the assigned men were picked up by the police while drinking in public on Saturday or Sunday. Dickenson's pub at Ross was a strong attraction for three of them. Charles Burdit confessed to the magistrate that "I got the drink at Dickenson's. The girl brought me a pint of wine which made me tipsy. They did not ask me who I was. It was after church."<sup>9</sup> Thomas Bowles was also picked up on the street in Ross on a Saturday afternoon.<sup>10</sup> Another was caught in the Christmas Day riot at Dickenson's and got 40 lashes.<sup>11</sup> All were assigned to farms close to Ross and walked into the village in their own time and had the cash to purchase drinks from the tap room of the public house. Likewise, drinking on the farm was only a problem for five or six employers who charged their assigned workers. As five of the drinking charges occurred in August it is possible that some of the men received cash bonuses for the end of the ploughing season and may have spent this on grog. Although this was the only appearance for each of the assigned men before the magistrate for the year, the sentences varied considerably from admonishment to 25 lashes or three months with a road party.<sup>12</sup> This suggests that those who received the more severe sentences were unsatisfactory in other ways which were not specified in the charge.

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<sup>8</sup> See Table 10. 1: Distribution of male "drunk and disorderly" charges in magistrate's bench book for Campbell Town Police District for 1835.

<sup>9</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of Charles Burdit, 24 August 1835.

<sup>10</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of Thomas Bowles, 10 August 1835.

<sup>11</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of George Harwood, 26 December 1835.

<sup>12</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trials of John Williams, 17 August 1835; George Brigham and Thomas Weldon, 21 July 1835; Isaac Sandford, 4

Again only five farmers charged their ticket of leave men with drinking. The rest of the ticket of leave men who were charged that year were either self employed, like Thomas Tucker a bricklayer and Richard Barkley a carrier or employed on daily or weekly hire, or between jobs. Particular employers seemed very averse to drinking and even charged two of their free workers. The Rev. Bedford charged his free labourer with drinking on a Sunday, which attracted a 5/- fine as did farmer William Parramore, whose free man was also fined.<sup>13</sup>

Table 9.1: Distribution of male “drunk and disorderly” charges in magistrates’ bench book for Campbell Town Police District, 1835.

	No. of drinking charges	Total men in group	Ratio
Assigned men	22	900	2.4%
Ticket of Leave men	17	250	6.8%
Free men	94	682	13.7%

Sources: LC83/1, *Magistrate’s Benchbook*, Campbell Town Police District, 1835, AOT; POL 47/1: *Ticket of Leave Holders Monthly Muster Returns* Campbell Town Police District, Sept 1835 to July 1837, AOT; Ross, *Almanack*, 1836, p. 46. See this population data in Appendix 2.

The 94 free men, who were charged before the courts were mostly emancipists. But even this group, who were apprehended in Ross or Campbell Town, generated on average fewer than two charges per week. Despite the public perception that drunkenness was one of the key barriers to reforming convicts, its visibility in the villages was low in this district, even amongst the two groups of convicts, the emancipists and ticket of leave men, who were legally permitted to drink in inns. As well as the low numbers of arrests for drunkenness, very few men were arrested more than once. Only three emancipists were charged three times during the year: William Fellows of Campbell Town; Patrick Moore, a saddler from Campbell Town; and John Schofield. The only person to be charged four times was a shearer and splitter from Sydney, William Davis.

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August 1835; Fred Sanders, 5 May, 1835; William Kellow, 20 January 1835; Jacob Ball, 28 December 1835; Charles Armstrong, 13 March 1835.

<sup>13</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, 1835, AOT, Trial of James Mason, 9 November 1835; James Wood, 5 February 1835.

Several factors helped reduce public drunkenness in the rural villages. The convict police patrolled the streets regularly at night and local shopkeepers and others were likely to report incidents of disorderly behavior during the day. As well, fines of five shillings were significant for working men, some of whom only earned around £2 per month. These fines increased with subsequent offences to ten shillings and more. This does not mean that there wasn't a pervasive drinking culture amongst the working men of the district, but suggests that most working men who drank, engaged in moderate drinking with a few occasional binges. Most serious drinking was likely to be done at home or in sly grog huts or in other locations out of sight, rather than in local public houses.

Liquor was easy to obtain in the villages. A number of local men supplied the assigned village convicts and those on the nearby farms. Job Padfield, a ticket-of-leave man, was charged with trafficking clothes and liquor to several assigned men, working for John McLeod, a farmer and trader on the outskirts of Campbell Town.<sup>14</sup> Charlie Blands, a free man, supplied liquor legally to Pat Kearney, one of McLeod's ticket-of-leave men, but illegally in the same transaction to Charles Bonnick, an assigned man.<sup>15</sup> Isaac Wheatly, one of George Stewart's assigned men, was caught trafficking liquor to other assigned men on the neighboring farm.<sup>16</sup> The above examples suggest that working men themselves didn't bother making fine distinctions about who could buy or sell liquor. They simply used local supply networks to obtain it when they wanted it. Mostly, they were only caught if an assigned man was discovered very drunk or if someone was reported missing.

While it is probable that some convicts who worked in the village inns made liquor available to others in the yards or tap rooms, only two inn workers were charged with this offence. James Johnson, a ticket-of-leave man who worked for publican Gavin Hogg, was charged with trafficking with one of the prisoners in the Campbell Town

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<sup>14</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of Job Padfield, 9 September 1835, ATO.

<sup>15</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of Charles Bonnick, 26 December 1835, ATO.

<sup>16</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of Isaac Wheatley, 11 December 1835, ATO.

foot gang, probably in liquor- but this was not specified. Johnson apologized to the magistrate and had his ticket of leave suspended for three days.<sup>17</sup> It is likely that convict men who worked at inns, had moderate access to liquor for themselves and may have found it easier to traffick in small ways without being caught in the bustle of work in the large public houses.

The truth about assigned convicts' experiences on farms was far more complex than simple bench book statistics allow, especially if drinking was involved as the case at G. C. Clark's farm revealed. Drinking could encompass betrayal, agency and opportunism in ways that reveal the complex reciprocities that groups of convict men negotiated with each other. Nine months of significant drinking amongst some of the assigned and ticket of leave men unraveled late one Sunday night, when several assigned kitchen staff went to Mr Purbrick, the head overseer and told him that three men had been missing since two o'clock that afternoon. They had gone over to Dixon's farm to drink with one of his assigned men, John Markham who ran a sly grog shop.

William Riley, an assigned shoemaker was central to the relationships that developed round drinking on the farm. Riley shared a hut with Whiting the gardener, where he cooked separately and worked at his trade during the day. As well as these privileges he made shoes in his own time to sell for cash. Like the eight ticket of leave men in Clark's employ, Riley spread the cash round by getting several of the assigned men to do odd jobs for him, but two especially ran regular errands for him over to Markham's hut to buy rum. Tutton and Simpson were paid in cash and rum for this, probably not only by Riley but also by two other ticket of leave men, John Cornelius and Will Travers who were also regular customers of Markham.

Being out after hours was a much more significant breach of convict regulations than drinking and overseer Purbrick armed himself and set out through the bush to Markham's to track down the missing men. He met Travers and Ward an assigned servant, walking home drunk along the fence line. They ignored his threat to shoot

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<sup>17</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of James Johnson, TL, 8 September 1835.

them if they didn't stop, abused him and carried on home, informing him they could go where they liked. Purbrick and Dowling, the assistant overseer, found the third man Riley, back in his hut eating supper after midnight. The overseer reported all three men the next morning.

The incident revealed some of the complex social relationships typical of many large farms. A small group of "yard" workers had privileges and more contact with the owner's family than had the farm labourers. The kitchen staff, gardeners and craftsmen like Riley who had only been several months in the colony, were in this group and had their own accommodation closer to the main house, access to food privileges and easier jobs. The waged ticket of leave workers also had status, cash, good rations and their separate quarters. By comparison the convict farm labourers housed in the barracks did the worst work in all weathers, but some members of this group like Tutton and Simpson found it advantageous to align themselves with individual ticket of leave men or yard workers to pick up cash and other perks by being useful to them. In addition, Tutton was one of those convicts found on many farms who eavesdropped and collected information that could be handy to him and used it as collateral to help himself. When implicated in the drinking he acted as a witness against Riley and told the magistrate that Riley had also been supplying drink to two of the Clarks' female servants, information that he had obtained from one of them when he found her drunk and made her tell him where she obtained the grog. Tutton also hid under the window of Riley's hut that Sunday night and heard the argument Riley had with the gardener, whom he thought had reported him missing. Tutton discovered that the informers were several of the kitchen staff whose loyalties were more aligned with the overseer than with the shoemaker, whose activities appeared to be upsetting the balance of power amongst the different groups of workers. Riley well understood the check that other yard staff had on maintaining the *status quo* and retaining their privileges and complained that "there were four Bloody b---gg--s in the yard, if they were out of the way, we could do as we liked."<sup>18</sup>

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<sup>18</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of William Riley, 17 November 1835. Evidence given at the trial by James Tutton, assigned man of G.C. Clarke.

The incident revealed significant absences too. Two bottles of rum shared between a dozen or so people every couple of weekends was hardly a drinking spree. It also appeared that the majority of the convicts were not centrally involved in the drinking circle, although they knew about it as word had got around that drink was on its way that Sunday afternoon.<sup>19</sup> None of the other six ticket-of-leave men were implicated in buying rum from Markham and only two of the nine assigned female convicts had succumbed to Riley's seductions by alcohol. G.C. Clark, giving evidence, claimed he knew nothing about the drinking on his farm until the incident. Indeed, free overseers may have played a more significant role than employers on some farms, in ignoring moderate drinking to maintain productivity and keep the workforce happy. But it was a risky strategy. Once any of the drinkers got drunk, abusive or started relationships with the female convicts, it was likely that employers would soon find out. Overseers Purbrick and Dowling covered their backs well in this incident, helped by warnings from the loyal kitchen staff.

While the drinking culture fueled complex layers of assertiveness, conviviality, betrayal and affiliations amongst convicts and free men, it could also be used by convicts to wring a profit out of supplying a prohibited item. Markham was an old colonial hand who had arrived twelve years earlier on the *Malabar* and saw the opportunities that his circumstances offered him with his own hut on the high road, the nearest public house four miles away, and up to twenty waged ticket of leave men on the surrounding farms who were entitled to purchase liquor.<sup>20</sup> Once the ticket-of-leave men brought drink onto the farms it was inevitable that some of the assigned men with cash would want it too. Markham was also well located to supply rum to the local shepherds who were selling grog to ganged absconders whom they were hiding in remote huts in the scrub at the back of farms. They too could make money by paying Markham five shillings a bottle for rum and selling it at a profit. But where did he get his supplies of rum? Although there is some general evidence

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<sup>19</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of William Riley, 17 November 1835. Evidence given at the trial by James Tutton, assigned man of G.C. Clark. Only two men were charged: William Riley who got six months in a road party with hard labour.

<sup>20</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of John Markham, 17 November 1835. Markham was never charged with selling rum to ticket of leave men. His charge specified selling to assigned men. He received 12 months hard labour in a road party for that.



that some convicts constructed stills in the bush to produce rough alcohol, Markham's product seemed of much better quality than that.<sup>21</sup> Getting hold of the raw materials may have been more trouble than locating a regular supply of the finished product. Besides, the ticket-of-leave men were unlikely to pay a premium price for a poor product if they could buy the real thing four miles down the road at the Wool Pack Inn.

With convicts assigned to a local distillery further down the Isis valley, it is possible that Markham got his supplies from there or else from Ross, perhaps dropped off by the same carters who carried it to market, or others who moved stolen goods around the district along with their legal loads.<sup>22</sup> Sly grog shops were located all over the district and most often on the roads to catch the passing traffic. It is probable that both free and convict carters supplied this trade by arrangement and quite regularly.<sup>23</sup>

The drinking episode on Clark's farm also offers some further insights into the extent of the cash economy which prevailed in convict ranks. Assigned men had even better opportunities of participating in the convict cash economy than their ganged colleagues. Many made or traded and sold items to their fellows: shoes, clothing, hats, liquor and services. Many were paid cash wages or bonuses by masters, or earned wages as ticket of leave workers. Some stolen and fenced goods were also traded. A fourteen year old prisoner, John Wood, revealed part of the lively trading culture that ticket-of-leave workers and assigned men engaged in on farms when he was incarcerated in the Campbell Town jail. Two assigned men supplied the local charcoal burners with meat from their master's flock and a ticket-of-leave worker

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<sup>21</sup>Bruce Hindmarsh, 'Beer and Fighting: Some Aspects of Male Convict Leisure in Rural Van Diemen's Land 1820-40', *Journal of Australian Studies*, Issue 63, 1999, pp. 14

<sup>22</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of Robert Baird, 6 February 1835. Baird was a ticket of leave carter accused of skimming two bags of lime from a consignment he picked up from Oatlands. LC 81/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of George Fisher, 7 October 1835. Two bags of stolen seeds were consigned to a buyer in Hobart by two assigned gardeners and were delivered by the farm cart while it was delivering farm produce.

<sup>23</sup> LC 81/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of David & Robert Jones, 19 May 1835. The Jones brothers ran a sly grog shop in Avoca patronized by the emancipist and ticket of leave men in the district. Each was fined £10 for selling wine without a license. Wine was a bulky item and had to be delivered either by cask or dozens of bottles. Both types of supply required the assistance of a carter.

acted as a fence and did a good trade in second hand clothes. Wood claimed that his jacket had been stolen and resold.<sup>24</sup>

Historians have underestimated the amount of cash that many convicts held. The Markham case is a good illustration. Markham sold rum at five shillings a bottle to local convicts, and some assigned shoemakers like Riley made enough cash from their private sales to buy a couple of bottles every few weeks. The ticket-of leave workers were paid around three to four shillings a day and in turn were likely to circulate their wages by drinking, gambling and buying services such as laundry work from their assigned work mates.<sup>25</sup>

Other local employers gave evidence that their assigned men had cash either through wages or trading. In Campbell Town, store keeper George Emmett paid wages to some of his assigned servants and even increased them for higher duties.<sup>26</sup> In Campbell Town, James Thompson a neighboring shopkeeper told the magistrate that one of his assigned men, who appeared to have business dealings in Hobart, threw down bank notes on the table and taunted Thompson that he made more money than his master did.<sup>27</sup>

But most assigned men had cash because their employers paid them a wage. This was widespread throughout the assignment period. Peter Murdoch told the Molesworth Committee that between 1831 and 1837 he employed ten to twelve assigned men and a free overseer on his dairy farm and four to five assigned men and a free overseer on his sheep run. In addition to their superior rations, clothes and accommodation, Murdoch paid his assigned dairymen eight shillings a week (£20.8.0 per year). He was not specific about his shepherds' wages, but it is likely they were paid about half of the skilled dairymen's wages. By comparison, the free overseers'

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<sup>24</sup> POL 35, Campbell Town, *Miscellaneous paper from the police magistrate's office*, 1830 -1840, AOT. 10 October 1839, Deposition of John Wood, juvenile, concerning stealing and trafficking on a local farm.

<sup>25</sup> James Ross, *Hobart Town Almanack and Van Diemen's Land Annual*, James Ross Printer, Hobart Town, VDL, 1836, pp. 53-54. Ross provided the going rates for a variety of workers as a guide to his readers.

<sup>26</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trials of Richard Taylor & William Watkins, 19 August 1835.

<sup>27</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trials of Mary Ann Woodcock and John Beckett, 28 August 1835.

wages rose from £40 to £100 per year during this period. Murdoch's rationale for the payment of wages was strictly commercial. The dairymen were skilled workers who produced between 250 and 300 pounds of butter weekly, a job that required minute attention from the men and longer hours than most agricultural workers. These wages were in fact two thirds of the rate for free men. Murdoch paid his free farm workers ten to twelve shillings a week plus rations, but only employed them for short contract periods as they liked to go off to Hobart every month or so on a spree and spend their wages on liquor and women.<sup>28</sup>

The committee questioned Murdoch further about this and they quoted Governor Arthur's dispatch of 8 February 1833, in which Arthur asserted that he had forbidden the practice of cash wages and that this prohibition was observed. Murdoch claimed that both he and other settlers still paid their servants cash wages and gave them additional rations, but this varied from settler to settler. Once Murdoch was directly asked by Arthur whether he paid wages and he replied that he did and was told by Arthur that his assigned servants would be removed. On going to Hobart the next day to try and sort out this situation he was told by "an officer of some rank" not to worry about it, as he had been similarly threatened but he assured Murdoch "I make myself perfectly easy on the subject, because I know Colonel Arthur's own servants are paid and we shall hear no more about it." And so it was.<sup>29</sup> Murdoch's evidence supported the view that the very structure of the farm labour force during the assignment period produced a farm hierarchy of workers with access to cash. A farm with ten assigned convict farm hands each paid £10 per annum, four freed or ticket of leave men - each hired on average for three months at 12/- a week and an overseer paid £70 per annum could create a cash pool of up to £200 a year. Larger farms with 20 assigned men, several overseers and eight to ten ticket of leave men could generate even more cash that could be circulated and redistributed amongst the farm's total workforce. Cash was not likely to be evenly distributed amongst convicts. Clever traders, men with marketable skills and those willing to work hard and save for a purpose were likely

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<sup>28</sup> Great Britain, Parliament, House of Commons, Select Committee on Transportation, *Report from the Select Committee of the House of Commons on Transportation*, Sir William Molesworth, chairman of the committee, (Adelaide, Libraries Board of South Australia, 1967), Vol. 1, pp. 121-123.

<sup>29</sup> *Ibid*, pp. 121 -123.

to control more cash than the less skilled or motivated who drank or gambled it away.

Assigned convicts' access to cash has not been emphasized by many historians, but it was a powerful symbol of their control over their own lives, and a demonstration of the Convict Department's inability to render convicts economically powerless. On some private work sites at least, convicts established their own hierarchies of control of significant resources such as cash and alcohol and redistributed them by supplying market needs within their own reach. Overseers, employers and even the convict administration turned aside and were complicit in or ignored most of these transactions. In doing so, farms, shops and factories came to increasingly resemble free worksites, where the power of negotiation, barter and payment was used far more frequently than Convict Department officials cared to acknowledge.

While many assigned men empowered themselves through private business transactions, used cash and alcohol, received wages, and moved around the neighboring farms in their leisure hours, their main task remained to labour for their private employer in the place of free workers. More than 95% of assigned men worked on farms in the Campbell Town district.<sup>30</sup> In 1835 they numbered around 900 men.<sup>31</sup> Their work varied greatly according to the type of farm that employed them and the efficiency of their employer. Wool production required fewer farm workers and lighter work shepherding the sheep.<sup>32</sup> Shepherds drew lighter rations and lived in huts on the outskirts of the farm with less work and more autonomy than many other farm workers. They were generally in charge of 400 to 500 sheep which they walked through the bush and grasslands during the day, sometimes covering up to 30 miles. Around 666,000 sheep were grazed in Van Diemen's Land in the mid 1830s mostly for fleece, with fleece prices varying from 9 pence to 16 pence a pound

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<sup>30</sup> CSO50/10, *Blue Book*, 1835, AOT, p. 157. In 1835, 2210 people [free and convict] were working in agriculture in the Campbell Town district, while only 190 were working in manufacturing and 20 in commerce.

<sup>31</sup> James Ross, *Van Diemen's Land Annual Hobart Town Almanack for 1836*, James Ross Printer, Hobart, 1836, p. 46.

<sup>32</sup> Great Britain, Parliament, House of Commons, Select Committee on Transportation, *Report from the Select Committee of the House of Commons on Transportation*, Sir William Molesworth, chairman of the committee, (Adelaide, Libraries Board of South Australia, 1967), Vol. 1, p.115-120.

in Hobart and reselling in London for 1/6 pence to 2 shillings a pound. Wool was the largest export earner and in 1833 the colony earned £100,000 for its wool exports.<sup>33</sup>

While most historians see colonial agriculture in terms of the growth of the wool industry, it can be forgotten that mixed farming employed more men than grazing due to its high labour intensity in an era when all farm work was done by hand. Up to twenty men could be employed all year at hard physical labour on mixed farms. Efficient farmers were encouraged to introduce mixed farming to make profits from the high prices the government paid for grain and meat to feed its convict labour force. In 1834 the government bought grain at ten shillings a bushel and meat at seven pence a pound. Any surplus was exported to New South Wales for the same purpose. This price bonanza varied throughout the 1830s as soil fertility declined.<sup>34</sup> In 1833 around 80,000 acres were under cultivation in Van Diemen's Land: one third wheat, one third other grains and potatoes and one third English grasses and turnips for animal fodder.<sup>35</sup> These acreages did not increase much for the rest of the 1830s. High prices pushed efficient farmers into mixed farming for both fleece and foodstuffs, but many were inexperienced or poor managers and not all were able to enjoy the high profits.

Dr James Ross provided inexperienced settlers with a complete guide to annual farming tasks in Van Diemen's Land. The working year on a mixed farm revolved around the grain harvest. In April the ploughing, manuring and harrowing of the wheat fields started. The small acreages of wheat on each farm were constantly worked until planting was started in August. Bullocks had to be fed huge quantities of high quality rations of grains and boiled root vegetables during winter and spring to keep them at the plough. Sowing was staggered over three months so that the hand

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<sup>33</sup> James Ross, *Almanack for 1836*, p. 46. Around 900 assigned and 250 ticket of leave men made up the local male convict workforce in 1835 in the Campbell Town district.

<sup>34</sup> James Ross, *Almanack for 1834*, pp. 65, 68. Prices varied from year to year. Lower prices in 1832-33 included 6 shillings and 3 pence a bushel for wheat and as low as 4 pence a pound for mutton. Soil fertility was rapidly depleted for wheat crops; manuring was not consistently used, so bushels per acre decreased on farms, varying between 15 and 30 per acre. Lower yield were unprofitable for costs. p. 28.

<sup>35</sup> *Ibid*, p. 65.

reapers could work through the crop from mid January to the end of March, as there was insufficient labour to reap a crop that ripened all at once.<sup>36</sup>

In addition to planting wheat, feed crops like cape barley, rye, improved grasses and root vegetables needed to be produced on all wheat farms to feed the working bullocks, the main engines of the wheat crop.<sup>37</sup> Two planting and harvesting seasons existed for the winter and summer vegetables for men and beasts: potatoes, cabbages, turnips and others, which had to be harrowed and hoed throughout their growing periods.<sup>38</sup> May was root vegetable harvest time; September—the time to sow improved pastures; November—the shearing started; December was haymaking.<sup>39</sup> In addition, many farmers planted hedges, constructed fences and barns for their crops, fattened pigs and managed the constant stable and pen work for the bullocks, pigs and horses.<sup>40</sup> The mixed farmer, his sons and overseers had to carefully manage a workforce that varied throughout the year from between twenty to thirty men, to keep the farm producing and profitable. For the convict farm labourer this meant constant hard work in all weathers at the minimum from sun up to sun down.

Assigned men were the primary full time work force of the farming Midlands, but one of the main difficulties settlers had to contend with was labour extraction. Assigned men understood they were used as forced labour, and even with the symbols of the lash and the chain gang constantly in front of them, some chose to resist through non-cooperation or pilfering. Others were unsuited to farm labour. They lacked the skills and experience or were physically or mentally less capable of adapting to this type of constant hard work.<sup>41</sup> However, most convict workers managed their working day by pacing their work, slowing down, ignoring overseers' orders or going missing for short breaks. It is not surprising that the largest group of charges that employers laid against their assigned workers concerned the quality of

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<sup>36</sup> James Ross, *Almanack for 1832*, pp. 23-28, 33-47.

<sup>37</sup> *Ibid*, p. 29.

<sup>38</sup> *Ibid*, p. 42-42

<sup>39</sup> *Ibid, passim*, p.51-120.

<sup>40</sup> *Ibid*, pp. 42-50, 52-55.

<sup>41</sup> Hamish Maxwell-Stewart and James Bradley, "Crime and Health – An Introductory View", pp. 10 – 12, *Founders and Survivors: Australian Life Courses in Historical Context*, available from [www.utas.edu.au/arts/conhealth/](http://www.utas.edu.au/arts/conhealth/). Authors argue that up to one third of convicts spent some time as ganged men or in penal settlements. These men had significantly worse health outcomes than other convicts, which was likely to affect their capacity to work.

their work and as Molesworth later noted in his report on transportation, these charges were overwhelmingly trivial in nature.<sup>42</sup> In the Campbell Town district in 1835 the bench book listed 58 charges for “gross disobedience”, another 29 for “insolence” and a further 22 for “neglect of orders”.<sup>43</sup> In some respects many of these charges could be seen as one of the main forms of protest identified by Atkinson—the withdrawal of labour.<sup>44</sup> In these cases the men mostly withdrew their labour either by working slowly, ignoring an order or sometimes refusing to work. Typical of such charges was one against Thomas Makin who failed to fetch the bullock chains or put the yokes away one afternoon after his employer’s son told him to do so.<sup>45</sup> William Huggins took one and a half days to bring 400 sheep in for shearing when his overseer estimated it was a three hour job.<sup>46</sup> One of the most common reasons for workers neglecting orders was that assigned workers were trying to enforce time limitations on their working hours. Many argued that the government hours of sunrise to sunset should apply on farms as well. They also demanded free time at weekends. John Macnamara refused to get up early and feed the pigs and bullocks in the morning and Thomas Witherstone curtly told his employer, who found the sheep in the turnips at 8am one morning that he should put fences round his crops as it was not his job to mind the sheep night and day.<sup>47</sup> Even juveniles like Richard Karsell, the blacksmith’s assigned lad, put down his tools and took time off to have his dinner rather than first finish the iron wedges he was making.<sup>48</sup> To some extent these actions reveal the men’s confidence in understanding and attempting to

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<sup>42</sup> Great Britain, Parliament, House of Commons, Select Committee on Transportation, *Report from the Select Committee of the House of Commons on Transportation: together with a letter from the Archbishop of Dublin on the same subject: and notes by Sir William Molesworth*. London, Henry Hooper, 1838, p. 15. Molesworth agreed with Maconochie, a witness, about punishments that were “severe, even to excessive cruelty” of 50 to 100 lashes, solitary confinement for months or years and hard labour in chains, which were “lightly ordered for crimes in themselves of no deep dye; petty thefts (chiefly to obtain liquor), drunkenness, insolence, disobedience, desertion, quarrelling amongst themselves, and so forth.”

<sup>43</sup> See Appendix 5, Charges against males residing in the Campbell Town district, 1835. This appendix provides the numbers of charges in general categories laid against assigned men, ticket holders and free men.

<sup>44</sup> Atkinson, ‘Four Patterns of Convict Protest,’ p. 75.

<sup>45</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, 1835, AOT, Trial of John Macnamara, 22 July 1835; and Thomas Makin, 18 September 1835.

<sup>46</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, 1835, AOT, Trial of William Huggins, 26 November 1835.

<sup>47</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, 1835, AOT, Trial of John Macnamara, 22 July; and John Witherstone, 20 April 1835.

<sup>48</sup> LC 83/1, Return of Cases Heard, Magistrate’s Court, Campbell Town, 1835, AOT, Trial of Richard Karsell, 30 April 1835.

enforce convict regulations in respect of their work. Others attempted to bargain for additional perks in exchange for the extra time they had to work. This did not work with inflexible employers. John Wayland failed to get the tea and tobacco he asked for from Captain Horton in exchange for doing kitchen duties on a Saturday morning and fetching water for the house.<sup>49</sup> Although James Samual got new trousers to replace his torn ones, his master still charged him with refusing to work until the trousers were supplied to him.<sup>50</sup> Assigned convicts continued to manage assignment through these levels of resistance just as earlier groups of convicts had prior to 1820.<sup>51</sup> In fact, the structure of assignment and its use for farm labour in Van Diemen's Land, gave an advantage to convict workers. The farm workforce was rarely more than 20 convicts and there was a high degree of division of labour on these sites with workers scattered across the farm on individual jobs. For these reasons it was more profitable for farmers to manage their workers with positive incentives rather than coercion.<sup>52</sup> However, certain employers, as in the above examples, used the magistrates' courts to coerce their workers, regardless of the fairness of a convict's request. In effect magistrates adjudicated the protests of assigned men who were resisting aspects of the system of forced labour, but as agents of the State, magistrates overwhelmingly favored the employers. The vast majority of these cases were decided against the men and harsh punishments were sometimes imposed. Other employers and assigned men negotiated changes in conditions that suited both parties and avoided using the courts. In doing this, both workers and employers ignored the convict regulations and forged their own work contracts thus creating conditions similar to the free labour market.

Less common, but more worrying to employers, were convict threats or actual use of violence. However if the Campbell Town bench book is typical of ones in other rural areas at this time, most threats and assaults took place against fellow servants rather than overseers or employers.

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<sup>49</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of John Wayland, 17 December 1835.

<sup>50</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of James Samual, 23 November 1835.

<sup>51</sup> Connell & Irving, *Class Structure in Australia*, p. 52.

<sup>52</sup> Hamish Maxwell-Stewart, 'Reckoning with Convict Workers in Van Diemen's Land', *Working Papers in Australian Studies*, Working Paper No. 61, Edinburgh University, 1990, p. 14.



Table 9.2: Charges brought against assigned men for assault or making threats, Campbell Town district, 1835.

	Fellow servants	Overseers	Employers or their family
Threats (against)	6	1	1
Assaults (against)	3	1	1

Source: LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT.

While most threats and assaults against fellow workers appear to have been about personal issues, in some cases, workers threatened others over poor work. Edward Harris threw hot water over a hut mate for causing them to be put on short rations and John Curry hit a ticket of leave worker who blamed him for losing the cows.<sup>53</sup> One overseer had to deal with contemptuous and threatening remarks from an assigned worker and another was threatened and hit by one who was drunk.<sup>54</sup> David Murray, an employer whose many charges against his workers suggested he was inflexible and difficult to work for, charged Joseph Downing with threatening behavior because Downing protested vigorously when Murray accused him of stealing a pig.<sup>55</sup> While one farmer and his son were threatened with a hammer and a knife, some convicts objected to being threatened with whips or hit by their employers.<sup>56</sup> Assignment created a degree of physical conflict on farms between employers and their workers but in the Campbell Town district serious physical assault was rare, possibly because assigned men were subject to far less brutish coercion than the men in gangs but also because the consequences of such action would be severe.

Atkinson identified two other types of common protests from convicts: the destruction of property and direct appeals to the magistrate. Neither of these was

<sup>53</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of Edward Harris, 22 July 1835; and John Curry, 28 April 1835.

<sup>54</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of John Atkinson 5 August 1835; and Noah Satchett, 7 March 1835.

<sup>55</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of Joseph Downing, 12 January 1835.

<sup>56</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of James McOwen, 11 December 1835; John Knox, 8 September 1835; George Bennett, 16 July 1835.

much used by assigned men in the Campbell Town district. Certainly there were no barn or rick burnings, which appeared to be more a strategy used by bushrangers.<sup>57</sup> Edward Gadsby, a free worker, was fined £2 for damaging a gig belonging to his employer; several assigned men allowed animals to die for want of care or others for permitting stock to trample crops.<sup>58</sup> A couple of carters were charged when goods being brought back from Launceston were damaged in transit or disappeared.<sup>59</sup> However, fewer than ten men were charged with these types of offences, some of which may have been acts of carelessness rather than malicious. As for stock theft, it was certainly a form of damage and farmers constantly complained about it. However, only eight men were charged with it during the year as it was extremely difficult to detect.<sup>60</sup>

Few assigned men elected to charge their employer with a breach of the convict regulations. The exception to this however, was those employed on the Massey property. Massey senior was a military deserter who arrived in Sydney in 1804 as a convict. He and his sons ran two farms on the South Esk River near Ben Lomand and ill used their convicts by Massey's own admission. As he put it: "I am obliged to use force with my servants. They will not obey my orders".<sup>61</sup> Six of his assigned convicts complained to the magistrate during the course of 1835. John Knox complained of short rations, insufficient clothing and being struck by Massey and another worker complained of being hit on the head by Massey and being unable to work. Knox was sent off to a road party and the other returned to the Crown.<sup>62</sup> Another four of Massey's men staged the only collective walk-off for the year, when they left the farm together and traveled down to the magistrate to complain about being denied

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<sup>57</sup> Bruce Hindmarsh, 'Scorched earth: contested power and divided loyalties on Midlands properties, 1820-1840', *Tasmanian Historical Journal*, Vol.6, No. 2, 1999, pp. 64, 66.

<sup>58</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trials of Edward Gadsby, 14 April 1835; Edward Green, 11 September 1835; John Clarke, 20 February 1835.

<sup>59</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trial of John Clark, 16 October 1835.

<sup>60</sup> Three assigned men, two ticket of leave men and three free men were charged with stock theft.

<sup>61</sup> LC 83/1, *Return of Cases Heard*, Magistrate's Court, Campbell Town, 1835, AOT, Trial of George Bennett, 16 July 1835.

<sup>62</sup> LC 83/1, *Return of Cases Heard*, Magistrate's Court, Campbell Town, 1835, AOT, Trial of James Knox, 8 September 1835 and George Bennett, 16 July 1835.

the full ration of flour and one claimed he was not given proper bedding.<sup>63</sup> The sitting magistrates returned two to the Crown and sent the remaining two back to Massey, presumably as punishment, as they had previously tried to abscond. Despite the evidence against them, the right to convict labour was not withdrawn from the Massey's despite the rules and regulations of the Convict Department.

Although it is possible to identify all four types of convict protest from Atkinson's paradigm in the records of the Campbell Town district courts, three of these were rarely used. Fewer than ten men were charged with damaging property, around thirteen with threatening or assaulting other convicts, overseers or masters, and only six appealed to the magistrates to redress their wrongs. Instead, the predominant type of protest was aimed at challenging the employers' right to their enforced labour, through slow work, neglecting of orders, poor quality work and placing of limits on working hours. This can be described as an early form of industrial bargaining even though the records suggest that it was not entered into collectively but was more an action taken by individuals. However, Atkinson claimed that a form of collectivity was in the process of being formed by convicts and speculated that it was discussed and encouraged when convicts met in groups such as gangs or jails, where they shared information about their rights and established procedures they thought were fair, such as limiting their work or claiming the equivalent of wages by pilfering from employers.<sup>64</sup> Certainly Table 9.3 shows that around 10 local men were charged with stealing food or drink for their own use and another 20 or so with stealing clothes and other items from their employer to sell. In all about 20% of the assigned men of the Campbell Town district were charged over the course of the year with committing acts that can be seen as attempts to improve their living conditions. We can surmise an additional unknown number were never caught or at least never brought to court.

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<sup>63</sup> LC 83/1, Return of Cases Heard, Magistrate's Court, Campbell Town, 1835, AOT, Trials of John Huntley, William Kinwood, Edward Mooring and George Peglar, 21 July 1835.

<sup>64</sup> Atkinson, *Four patterns of convict protest*, p. 75.

Table 9.3: Charges brought against assigned men for theft or suspicion of felonies, Campbell Town district, 1835.

Items stolen	Number of men	Items
Food for own use.	9	Bread, potatoes, sugar, tea, currents, butter, meat, milk, apples, onions.
Liquor for own use.	1	bucket of wine.
Clothes for resale	13	5 lots of slops clothing, boots, 2 fashionable shirts, dress coat, waistcoat, master's clothes, clothes of friends/fellow servants.
Items for resale	14	Fruit trees, seeds, shrubs; wool bagging, linseed oil; a 150 lb cask of butter, 2 bushels of dates, 16 bushels of lime, a musket, 100lb bag of flour, pair blankets, rum & brandy, a goose, a sheep.
Items not specified	7	Pilfering, etc.
Total men	44	

Source: LC 83/1, *Return of Cases Heard*, Magistrate's Court, Campbell Town, 1835, AOT.

For the convict men who were the primary rural work force in the Campbell Town district, assignment was not a benign experience. Their work was hard and constant, overseen by private employers who were determined to make a good profit out of farming. Around 60% of the charges that employers brought against their men were related to their work including absconding or absenting themselves from work.<sup>65</sup> The consequences for breaching convict and other regulations were severe even though most of the charges were trivial. From the total of 324 charges brought against assigned men in 1835, the magistrates ordered 67 floggings, sentenced 22 to chain gangs and 47 to road parties for between two and twelve months duration. An additional 30 assigned men were sentenced to imprisonment either for a month or two in Launceston or for up to 18 months at the Port Arthur penal settlement.<sup>66</sup> Despite witnesses to the Molesworth committee suggesting that most private employers managed their convict workforce with cash incentives and extra rations, even so, in this district up to one third of the assigned men were charged with an offence during the year and around 50% of those charged received a severe

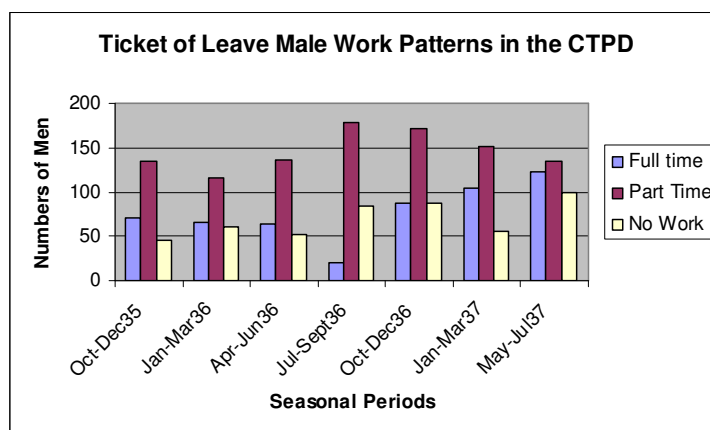
<sup>65</sup> See Appendix 5 'Charges against males residing in the Campbell Town district, 1835 for all groups of charges against assigned men.

<sup>66</sup> LC 83/1, *Return of Cases Heard*, Magistrate's Court, Campbell Town, 1835, AOT.

punishment.<sup>67</sup> Around 18-20% of the total assigned male workforce received a severe punishment, often for lack of diligence or efficiency at work. As magistrates' sentences were closely monitored by the Chief Police Magistrate in Hobart, it can be assumed that what happened in the Campbell Town district was also common in other rural districts in Van Diemen's Land. These punishment rates show that labour was extracted from the assigned male workforce in rural areas by using a high rate of severe punishments to keep the men at their work.

While district farmers used their assigned men as their permanent full-time workforce, they hired ticket-of-leave men to make up labour shortfalls at times of intense agricultural labour. Assigned men could not be fired at will and were valuable as they worked either for rations or for lower wages than other workers. By contrast, the surviving monthly muster records of ticket of leave convicts enable us to look at a number of aspects of their employment in the district. From 1835 to 1837 the number of ticket-of-leave men available for hire rose from around 300 to 400. At the same time, however, the number of assigned convicts steadily rose too, which made it increasingly difficult for ticket of leave men to obtain work.<sup>68</sup>

Figure 1: Ticket of leave male work patterns in the Campbell Town police district.



<sup>67</sup> This assumes a total convict workforce of around 1150 men in the district in 1835, of whom around 900 were assigned men, the rest being ticket of leave workers who were not treated as severely. The 166 severe punishments were received by 18-20% of the 900 assigned men.

<sup>68</sup> Ross, *Almanacks*, 1835, pp. 50-51 & 1836, pp. 51-52. The total numbers of men, both assigned and TOL, going to private employers was increasing each year, over and above the numbers being emancipated from the system. From 1 January 1835 to 1 Jan 1836 the total convict workforce for private employers in the district rose from 909 men to 1152 men.

Source: POL 47/1: *Ticket of Leave Holders Monthly Muster Returns* Campbell Town Police District, Sept 1835 to July 1837, AOT.

From October 1835 to July 1837 Figure 1 shows the relationship of the availability of full time and part time work in the district and the high proportion of men who apparently had little or no work at all.<sup>69</sup> Figure 1 demonstrates that by the mid to late 1830s the Campbell Town Police District was more than fully supplied with its general labour needs.<sup>70</sup> Moreover, the farmers managed their hiring needs by decreasing their numbers of full time ticket of leave men in quiet times and increasing their numbers of part time workers. Thus, where a man in a busy time may have got work for the entire three month quarter, in quarters of lower needs he might only be hired for one or two months. In all quarters there were always more men employed part time than full time.

As Figure 1 shows, in some quarters, up to 50% of the ticket-of leave-work force only got part time work. As well, a large number of men, varying from between 15% to 34% of the total numbers of ticket-of-leave holders, were apparently without work—although it is likely that some in this group may have been hired weekly or even daily, and others may have already left the district without travel passes or been self employed. Although all ticket-of-leave holders were required to obtain travel passes from the local police office, if they wanted to move to another district for work, the muster sheets only noted that very small numbers of men had travel passes. Either the police did not record all the passes issued on the muster sheets or numbers of men just traveled on without obtaining them. Either way, this may have contributed to inflating the numbers of men who remained on the local muster sheets, ostensibly still in the district, but without any record of an employer or place of employment. In reality, it was difficult for even the local police office to keep track of at least 20% the mobile ticket of leave workforce that moved through the

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<sup>69</sup> See Tables 10.4, 10.5 and 10.6 that follow for the percentages of men in each of these categories.

<sup>70</sup> Between eight and nine male convict transport ships were landing men at Hobart between 1830 and 1834. These men were absorbed as a full time assigned workforce or as government workers. While the numbers of male transports declined to between five and eight per year in the second half of the 1830s, this period saw a growing increase in the number of paroled men, who had been landed between 1828 and 1834 who were coming onto the job market looking for full time paid work.

Campbell Town police district looking for work. This was especially so at times when insufficient employment was available for all seeking it.

Table 9.4: Ticket-of-leave holders working full time, Campbell Town district, 1835-1837.

	1835 Oct - Dec	1836 Jan - March	1836 April - June	1836 July - Sept	1836 Oct - Dec	1837 Jan - March	1837 April only.	1837 May - July
No. ToL men employed full-time	71	66	64	21	87	105	159	123
Total in ToL workforce	290	259	306	342	404	374	317	413
Rate employed full-time	24.4%	25.4%	20.9%	6.1%	21.5%	28%	50%**	29.7%

Source: POL 47/1: *Ticket of Leave Holders Monthly Muster Returns* Campbell Town Police District, September 1835 to July 1837, AOT

\*\*This muster record was for one month only instead of three months. This may account for the exceptionally high full time employment rate.

During the late 1830s, Table 9.4 demonstrates that the district only employed from 20% to 30% of ticket-of- leave men full time, depending of the seasonal labour requirements of farms. But even this group was split into those men who were employed full time by one employer for the three month period and longer, and those who worked throughout the three months but had to seek work with several different employers as Table 9.5 indicates.

Table 9.5: Comparison of ticket of leave holders working full-time for a single employer and those working full-time for several employers, Campbell Town district, 1835-1837.

	1835 Oct - Dec	1836 Jan - March	1836 April - June	1836 July – Sept	1836 Oct - Dec	1837 Jan - March	1837 April only.	1837 May - July
Full-time working for one employer	49	38	49	13	54	69	159	96
Full-time working for two or three employers	22	28	15	8	33	36	N/A	27
Total number of full-time employed	71	66	64	21	87	105	159	123

Source: POL 47/1: *Ticket of Leave Holders Monthly Muster Returns* Campbell Town Police District, September 1835 to July 1837, AOT.

A specific group of large land holders showed a preference for employing the same ticket of leave men over longer periods of time. This group included G.C.Clark of Ellenthorpe farm, Mrs Abbott of Ashby, Dr T. Pearson of Douglas Park, James Makersey of Greenhill farm, Messrs J. A. Youl, J. Grant and W. Talbot all on the South Esk River and another dozen across the district. Some employers like Makersey and Clark employed up to eight ticket of leave men at a time for longer periods, demonstrating a commitment to this group of convict workers, who most likely were the best skilled and most hardworking of the ticket of leave holders.

A smaller number of men, shown in Table 10.5, had to try harder to remain fully employed. These were the men who went from one employer to another and managed to remain fully employed for most of the time. Some of these were hired in rotation by a small group of farmers in one part of the district. For example, on the Isis River the Bayles, Dixon and O'Connell families frequently hired particular men in rotation during the busy wheat sowing, shearing and hay harvesting season from September to Christmas. During the same period the Parramores, Fosters and



Harrisons did much the same thing on the Macquarie River near Ross.<sup>71</sup> Quite a few other ticket of leave men who managed to remain fully employed were constantly on the move looking for work nearby or further a field.

As Table 9.6 demonstrates, however, the majority of ticket of leave workers in the district had a much grimmer time remaining employed. From 30% to 50% were recorded as partially employed. In effect this meant they worked only one or two months out of every three, yet very few were recorded leaving the district to look for work, until the last few months in 1837.<sup>72</sup> In part this was because the system was designed to prevent them from moving from district to district. Passes that restricted movement were an important means of keeping wage inflation at bay. It is possible, however, that some labourers preferred to take short term hires although it is not possible to determine from the records, whether it was the employer or the employee who was responsible negotiating the short term contracts.

Table 9.6: Ticket-of-leave holders with part-time employment, Campbell Town district, 1835-1837.

	1835 Oct - Dec	1836 Jan - March	1836 April - June	1836 July - Sept	1836 Oct - Dec	1837 Jan - March	1837 April only.	1837 May - July
Number with part- time employment	134	116	136	178	172	152	NR	134
Rate of those with part-time employment	46%	45%	44%	52%	43%	41%	NR	32%
Total in ToL workforce	290	259	306	342	404	374	317	413

Source: POL 47/1: *Ticket of Leave Holders Monthly Muster Returns* Campbell Town Police District, Sept 1835 to July 1837, AOT.

<sup>71</sup> POL/47/1, *Ticket of Leave Muster Lists*, Campbell Town Police District. AOT. See entries under these farmer - employers, as places of residence of ticket-of leave workers from September to December 1837.

<sup>72</sup> Morrissey, Sylvia, "The Pastoral Economy, 1821 – 1850" in *Essays in Economic History of Australia*, Griffiths James [General Editor], pp 75 – 76. Morrissey saw wheat production and wool as the key to Tasmania's wealth in the 1830s. The production of both exports expanded steadily during the 1830s until the productivity of the available alienated land had reached its capacity by the mid 1830s. After this, Tasmanian capital boomed briefly by financing the opening of the two new colonies in South Australia and the Port Phillip District, rather than through the creation of wealth through an expansion of new farming or manufactures.

One employer claimed that he preferred to employ ticket of leave workers as he could retain them for longer periods than free workers, who liked to work for several months, then leave to go on a spree in Hobart.<sup>73</sup> This does not appear to be the preference of employers in the Campbell Town district though. Perhaps the very seasonal nature of mixed farming restricted local farm work to short contracts. The muster records of this period support this, suggesting that most ticket of leave farm workers were used as a supplementary labour force by local farmers, during times of high labour need, then discharged. Of course, some of these men may have obtained more work than was recorded on the muster lists by local police clerks. Additionally, employers, particularly those from remote farms, may not always have supplied accurate information to the police office about the constantly changing men in their casual workforce.

The accuracy of the clerk's entries varied substantially on the muster lists. If a police clerk had some personal knowledge of a man's location it was sometimes added to the muster list as a note, but this appeared to depend very much on the inclination of the clerk. Some entries showed a run of the same employer over six months for one worker, but with several gaps. It was not possible to determine with accuracy if this literal recording of working four out of six months for one employer, indicated the worker was partially employed as recorded or if the clerk could not be bothered noting the name of the employer for all months. In these instances, I have taken a literal reading of the list and recorded the worker as partially employed.

Similar problems exist when interpreting the remaining data in Table 10.7. Between 16% and 30% of the ticket of leave holders had no record of employment during the period the data was collected. As table 9.7 shows, very few of this group applied for passes to leave the district and find work elsewhere. This is especially so in the earlier months of these musters. For example, between January and March 1836, the local police recorded that they had no knowledge of the employer or location of 60

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<sup>73</sup> Great Britain, Parliament, House of Commons, Select Committee on Transportation, *Report from the Select Committee of the House of Commons on Transportation*, Sir William Molesworth, chairman of the committee, (Adelaide, Libraries Board of South Australia, 1967), Vol. 1, p. 122.

men, but only four of these had been granted passes to travel elsewhere. The data therefore suggests that a substantial number of ticket of leave men continued to live within the district, but without recorded employment and very likely were itinerant labourers working in the remoter areas or were able to live off the land.

Table 9.7: Ticket-of-leave holders with no record of employment or place of residence, Campbell Town district, 1835-1837 (and numbers who left the district).

	1835 Oct - Dec	1836 Jan - March	1836 April - June	1836 July - Sept	1836 Oct - Dec	1837 Jan - March	1837 April only.	1837 May - July
Number with no record of employment	46	60	52	84	87	55	134	100
Rate of those with no record of employment	16%	23%	17%	34%	22%	15%	42%	24%
Number who left the district with passes	16	4	21	4	44	10	15	11
Total in ToL workforce	290	259	306	342	404	374	317	413

Source: POL 47/1: *Ticket of Leave Holders Monthly Muster Returns* Campbell Town Police District, Sept 1835 to July 1837, AOT.

Some of them may have been men who were hired daily or weekly, and others may have found different sources of income including taking up clearing leases, felling timber, shingle making or charcoal burning in the tiers. There were many jobs such as fencing or harvesting on farms that an experienced rural worker could get for a week or two. Others may have found livings as tinkers or hawkers, buying and selling clothes or trafficking goods. A few would have serviced the pilfering and petty thieving of the district or become sheep stealers, to supplement whatever they made from casual wages. As finding work got harder, more ticket of leave men were charged with offences and had their ticket-of-leave suspended or worse. Up until December 1836, only four men had their tickets suspended and one was sentenced to a road party. In the seven months of records for 1837, this had increased to seven suspensions, four sentenced to a road party, four more sent to jail, and one with an

arrest warrant out against him.<sup>74</sup> Despite this increase, the muster data records low conviction rates, even in times of decreasing employment options, although it is clear when we compare this data with the magistrates' bench books, that the muster records may not accurately record the total number of these types of sentences handed down to ticket of leave holders.

When the wheat harvest was in full swing, the two most popular destinations for ticket-of-leave holders were Norfolk Plains and Oatlands where work as reapers may have been available.<sup>75</sup> There was of course, a sufficient wheat crop in the Campbell Town district to keep six grain mills operating, but despite this, there appeared to be insufficient work for the 374 ticket-of leave-workers who were recorded in the district during the harvest months. Similar numbers left from May to July in 1837.<sup>76</sup> This relative mobility of ticket holders arriving and leaving each district monthly and the numbers of men with no location or employment recorded against their names on the lists, suggests that up to 20% of ticket holders were untraceable at any one time by convict officials. The monthly muster system only provided a semblance of control over the men's whereabouts.

Very few of the local ticket of leave men were able to establish their independence by working for themselves. The few who did were tradesmen or others and lived in Campbell Town or Ross. Their group included a harness maker, shoemakers, blacksmiths, carters and stonemasons. For a time one worked at St Pauls Plains and another at Avoca as shoemakers but this self sufficiency was often short lived. The musters rarely identified the men's trades just noting "own hands", signifying they worked for themselves.<sup>77</sup> Only a small number of these men appeared to continue to work for themselves for the whole twenty two months covered by the data. Others

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<sup>74</sup> POL/47/1, *Ticket of Leave Muster Lists*, Campbell Town Police District. AOT. See January to July 1837 Muster lists.

<sup>75</sup> POL/47/1, *Ticket of Leave Muster Lists*, Campbell Town Police District. AOT. See entries for men leaving with passes between January and March 1837.

<sup>76</sup> Ross James, *Van Diemen's Land Annual Hobart Town Almanack for 1834*, Hobart, 1834, p. 83. The following mills were around the district: John MacLeod's on the Macquarie River by Campbell Town, William Kermode's on Blackman River, Andrew Gatenby's and Michael Lackey's- both on the Isis River, Bartholomew Thomas's on the South Esk River and Mr Gray's on the St Pauls River.

<sup>77</sup> At least four different clerks kept the monthly Ticket of Leave Muster Lists in the Campbell Town police office over the 22 months of records that remain. The clerks had different standards of accuracy in keeping the lists and supplied differing quantities of notes to the individual entries. POL/47/1, *Ticket of Leave Muster Lists*, Campbell Town Police District. AOT.

appeared to take some paid employment at times around the village and another group was only ever employed by the free tradesmen, shopkeepers, builders, publicans or emancipist tradesmen of the villages. Even those who worked for village employers rarely stayed with the same employer for the whole twenty two months, but changed employers several times in this short space of time. This entire group of village ticket-of-leave workers rarely exceeded 8% of the total number of men listed on the muster in any one month.<sup>78</sup> Around twelve such men worked regularly around Campbell Town, and another ten or so around Ross, during the period of the data.

Contemporary witnesses, such as Alexander Maconochie thought the ticket-of-leave system was uncertain and unfair. He believed their good behavior was not taken into account sufficiently, instead they could be sent back to a road party for minor infringements of the severe restrictions they were under. Because their police records only recorded transgressions and did not list their good behavior, these records were biased against them and inadequate to judge their fitness for indulgences or punishments.<sup>79</sup> Although many thought the ticket holders behaved well and were better workers than assigned men or those with conditional pardons, one witness to the Molesworth committee had his doubts and argued that “I see people, when they are well off and comfortable, and getting good wages, behaving very well, and when they get into the opposite state they are very apt to relapse”.<sup>80</sup> Certainly some of the previous tables suggest that quite a number of ticket holders in the Midlands were out of work at least some of the time but did they go back to their old ways to make ends meet? Table 9.8 looks at the range of charges brought against ticket of leave holders in 1835, when 61 (24%) of them came before the magistrates.

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<sup>78</sup> The 8% of village ticket-of-leave workers only numbered between 20 and 35 men during the 22 months of the musters. POL47/1, *Ibid*, AOT

<sup>79</sup> Alexander Maconochie, R.N., K.H., *Thoughts on Convict Management and other Subjects connected with Australian Penal Colonies*, John W. Parker publisher, London, 1839, p.4.

<sup>80</sup> Great Britain, Parliament, House of Commons, Select Committee on Transportation, *Report from the Select Committee of the House of Commons on Transportation*, Sir William Molesworth, chairman of the committee, Adelaide, Libraries Board of South Australia, 1967, Vol. 1. p.123.

Table 9.8: Charges against ticket-of leave holders, Campbell Town district, 1835.

	Absconding, absent, out after hours etc.	Work related charges	Leisure related eg drinking, brawling	Common Law charges	Work related. (Master & Servant Act)	Total
No of charges against ticket holders for 1835.	9	14	21	25	1	61
Number of ticket holders in district						250

Source: Database Report, 'Assigned, Ticket-of-leave and Free Workers', LC 83/1, *Return of Cases Heard*, Magistrate's Court, Campbell Town, 1835, AOT.

Ticket of leave holders could still be charged with being absent from duty, out after hours, failing to attend muster or leaving the district without a pass. A number were also picked up on suspicion of being a run away. The largest number (25) were charged with falling back on theft and the disposal of stolen goods, common law offences for which many of them were first transported. Seventeen of these charges related to consorting, trafficking with prisoners, receiving stolen goods, robbery, theft, suspicion of a felony or sheep stealing. Although it would be reasonable to suspect that most of those charged with felony offences would be unemployed, this was not so. Eleven of the group was either self employed or working for an employer at the time they were charged. Three were working on farms, two working in pubs and the others were self-employed as a carter, a couple of bricklayers, a sawyer, a blacksmith and a tenant farmer. It appears that some ticket of leave men retained links with the black economy and found it handy to supplement their income illegally in this way.

For those who were employers or self employed, one was charged with withholding wages and six who were tradesmen working for themselves, were charged with breach of contract for not finishing work they had contracted to do. Another 21 were charged with general disorderly behavior which was common amongst working class men at the time. Of this number, 17 were fined for being drunk and disorderly, although magistrates seemed to accept that they were entitled to drink in public

houses as long as they behaved. Another three were charged with assaulting their wives and a few more with fighting.

With the exception of the 17 felony charges which were committed by recidivists, their punishments were more in keeping in severity with those handed down to free men rather than convicts. They were mostly admonished, fined or sentenced to several days in the solitary cell. However Maconochie was correct in assuming that those on felony charges received more severe sentences. Eight of these men were sentenced to road parties and another three to prison. Several more were remanded to the Quarter Sessions. Although their conduct records would not have listed their good behavior, in a rural district their general character was likely to be well known to police and they would have had the opportunity of submitting written assurances of their good character from local worthies. The small number of men who committed felony offences should not detract from the achievement of the vast majority of the two hundred and fifty ticket holders who made the transition to freedom without any significant court appearances before the magistrates.

As one contemporary noted: “amongst lower class men, free and bond freely associate with each other... The free lower class man doesn’t attach stigma to associating with a convict, only the respectable classes do”.<sup>81</sup> In fact the convicts had never left the working class as Alexander Harris, a migrant worker, recognized when describing his own responses to the convict population. He was happy to work with them and share merry evenings with them in bush huts over a drink, a song and a yarn and “if there were many things in these men which I could not approve, there was much more that I could not but admire. There was a sort of manly independence of disposition, which secured truthfulness and sincerity at least among themselves in the bush”.<sup>82</sup> He believed that migrants, corn stalks, bushmen and emancipists had

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<sup>81</sup> Great Britain, Parliament, House of Commons, Select Committee on Transportation, *Report from the Select Committee of the House of Commons on Transportation*, Sir William Molesworth, chairman of the committee, ( Adelaide, Libraries Board of South Australia, 1967), Vol. 1, p.57. Evidence of John Russell.

<sup>82</sup> Alexander Harris, *Settlers and Convicts*, first published 1847, (Parkville, Melbourne University Press, 1964), p. 24.

become engrossed in the business of colonizing in rural areas, with bullocks, land, timber and stock being the glue that welded them together.<sup>83</sup>

The experiences of work in colonial Australia, as this study of the Campbell Town police district has shown was not a simple division between the free and the unfree. Because the labour force in rural areas was a mixture of assigned convicts, ticket of leave holders, emancipists, colonially born and free migrants, the experience of shared work began to outweigh the divisions that 'convictism' may otherwise have put in place. What emerged by the mid 1830s in both colonies was a distinct colonial working class which was rapidly developing traditions which would blur the divisions between the free and unfree, responding to the demands of a largely free enterprise economy.

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<sup>83</sup> Harris, *Settlers and Convicts*, pp. 15, 23-24, 26. Corn stalk was a common name given to the young colonial born men in New South Wales.



## Conclusions

### **General conclusions:**

This regional study of a convict workforce proposes three general conclusions. Convicts were the Midland's first working class and filled all work niches where both skilled and labouring workers were required. They worked for the administration, enforcing the system as police, clerks, jailers, guards, post messengers and overseers. Convict tradesmen were in government employment erecting local buildings for the administration and the military as well as bridges and roads. They were supported by a labouring force made up of punishment gangs filled with convicts who had been convicted of mostly minor offences against the convict regulations. While these workers numbered only a couple of hundred, a larger group of between 1000 to 1200 assigned men worked as rural labourers on the large farms for private employers and a further 90 or so convict women worked as their domestic servants. By the late 1830s the original convict working class had developed into a multi-layered working class consisting of assigned convicts, ticket of leave workers, and a few emancipists and free migrants. The complex interactions between these elements of the working class and their employers on farms and in villages had the effect of integrating different groups of convict workers into their local community. Employers and their convict workers reverted to reestablishing their traditional patterns of social behavior towards each other and by doing so, substantially broke down the effects of the convict regulations over the type of lives convict workers could lead. Convicts on all work sites exercised whatever agency they could to improve their conditions. Almost all such acts involved convicts seeking to reinstate rights and conditions they had enjoyed previously as free people.

Secondly, although Lieutenant –Governor George Arthur attempted to closely control convicts, limit their rights and force them to become a compliant working class, in fact he only exercised a semblance of control over them. Although the Campbell Town district appeared superficially to be tightly controlled by detachments of soldiers, magistrates located strategically across the district, and a police establishment and court system under the command of the police magistrate, this could never be enough to lock down the district completely. The terrain

prevented this and offered easy travel routes where soldiers or police rarely went; the back roads, bridle paths, remote farm paddocks, safe huts and low scrubby hills all provided spaces in-between the lines of official control. In villages too, side streets, inn-yards and emancipist's houses were places where convicts could slip away to—for leisure activities or to transact business. The system remained under control because most of the local convict workforce used the spaces in-between to live as freely as they could while adhering to the broad requirements of the assignment system. Local bench book studies show high levels of compliance to work requirements, especially amongst female convicts. While over one third of the male assigned workforce was brought before the local court, most charges were for trivial instances of inefficient work or mild insubordination.

Finally, the assignment system did not provide benign work places for convicts, regardless of whether they were in assigned service to a private employer, were in government employment or in one of the punishment labour gangs. Many contemporaries believed punishments were severe and in excess of what was warranted for poor work standards or petty felonies. The police magistrate, through his fellow magistrates and the local courts, imposed harsh sentences designed to keep most convicts at work. In 1835, over 50% of assigned men charged before the local court were flogged, sent to a road party or chain gang, or imprisoned at the Launceston jail or Port Arthur for up to eighteen months. Convict police who operated under harsher discipline than most convicts, were frequently either dismissed or suspended and sentenced to road parties. The flogging rate in the first six months of 1835 for the Ross Bridge gang was similar to that at the Port Arthur and Moreton Bay penal settlements.

### **Major findings**

Formation of the colonial middle class: The small capitalists who arrived in the post Bigge era in the early 1820s and set up large farms in the Midlands, came from a varied middle class backgrounds, some with a strong Reform agenda. Unlike the large landowners of New South Wales who had built their wealth over the previous two generations, those in Van Diemen's Land did not aspire to become colonial gentry; their main aim was to increase their wealth quickly. Many did not intend to

remain in the colony, but like the British in India wanted to make enough money to return home to Britain. By end of the assignment period over half of the socially elite group of magistrate-landowners in the Campbell Town district returned to England to resume comfortable but obscure middle class lives, as did some other wealthy local farmers. The families who stayed went on to consolidate their wealth as middle class farmers and graziers and became part of the growing and politically powerful colonial middle class. They created family networks by intermarrying with each other or with urban professionals, and were more interested in their own district than assuming broader political ambitions.

Impact of the assignment system on colonial birthrates: Although substantially fewer middle class women were available as marriage partners within the settler group, the real disparity between the numbers of males and females occurred within the working class convict population, where the ratio was about 10:1. Not only did this affect the numbers of potential marriages possible after convicts were freed, but unlike New South Wales, Governor Arthur only gave permission for about 10% of convict women to marry while still under sentence. Instead, he required convict women to remain celibate domestic workers, supplying the critical shortages of domestic labour in middle class households. This had the effect of reducing the overall birthrate of the colony, as convict women aged between 20 and 35 were at the height of their reproductive life while serving sentences ranging from seven years to life. The 1835 Convict Muster supports this hypothesis as only 10% of convict women were listed as either assigned to their husbands or had been given permission to marry after they received their tickets of leave. In both cases these women needed the governor's permission to marry. District research also showed that convict women were not becoming pregnant in significant numbers. Only three pregnancies occurred during 1835 amongst the 90 or so convict domestic workers in the Campbell Town district, which suggests that female convicts were either choosing to restrict their sexual activity while under sentence or were controlling their fertility by using some of the contraceptive options known at the time.

The convict male labour force: The Campbell Town regional study shows that a multi-layered working class had been established by the later years of the 1830s of

which the assigned convicts were the primary workforce. This study provides new information about the secondary workforce, the paid ticket of leave convicts. Data from the monthly ticket of leave musters from 1835 through to 1837 show that the ticket of leave men were hired as supplementary labour during periods of peak labour needs. Only from 20% to 30% of ticket holders were able to get full time work over the data period, either hired by single employers or hired by neighboring farmers in rotation. Another 30% to 50% gained part time work over the period by working for one or two months out of every three. From 16% to 30% of ticket holders had no recorded work at any time. Only about 8% were able to work for themselves, mostly harness makers, tailors, shoemakers or blacksmiths and most of them resided in a village. Some of this group was simply identified as 'own hands' which implied they may have produced products like shingles, charcoal or split timber for sale. This precarious employment situation may indicate that some lived cheaply in their own huts getting daily or weekly hire at times. Despite the difficulty of finding work for many ticket holders, there was no major increase in ticket holders being charged with theft or other felonies, although a few always appeared in the bench books for trafficking.

The cash economy: Largely overlooked by most historians, the most potent symbol of agency for convicts was cash. Despite convicts being forbidden to either make money or retain it, the Campbell Town bench book demonstrates that considerable numbers of convicts had access to cash; £5 or more was not uncommon. Cash flowed through all convict work sites. Men on their way to punishment gangs sold their work clothes on the way and arrived in rags; both ganged and assigned convicts worked weekends for cash; convicts sold goods they made; they trafficked with their fellow convicts in both legal and illegal goods; and convict police ran small businesses on the side. Their traditional working class skills of trading and opportunistic money making were replicated throughout the system. The administration broke its own rules and paid wages to convict police and some other government workers like clerks, some tradesmen and even servants at the governor's residence. As the free and unfree workers started to mingle on the same work sites, the free spread their wages and illicit goods through the convict workforce by buying services and goods from convict workers or gambling and drinking with them.

### **Present implications**

This thesis presents a revisionist position towards convict police. Historians have explored the structure and establishment of the convict police, as well as reflecting some of the contemporary criticisms of them being corrupt and ineffective. Police were generally thought to have performed a narrow range of functions such as night watch patrols in villages or escorting prisoners and patrolling the main roads. This thesis explores more fully the variety of functions undertaken by police as the police magistrate's office took on new tasks that later became the responsibility of local government. The thesis examines the difficulties of their job, made worse by lack of training, poor leadership and being under suspicion from both the convict working class and the settlers. It also challenges the contemporary view that they were corrupt. In the Campbell town district few charges of corruption were brought to court against them and in all cases complainants got reasonable redress. As convicted felons police lacked the moral authority to do their job with respect, but other failings of the service were also experienced by the new British Metropolitan Police, suggesting that both services had similar troubles finding ways of establishing this new public service.

This thesis expands the literature available about road parties especially looking at the phenomenon of absconding for several days or even weeks and buying board and lodging from shepherds in remote huts. Absconding was rife throughout all types of road parties with at least 24% of men sentenced to road parties absconding at least once, partly to avoid inadequate conditions. The thesis explores the role cash played in these convict transactions and the effects this commerce had in the Campbell Town district, supplying the illegal demands for liquor, food and other services that grew up around this trade.

### **Directions for future research**

The thesis opens up a number of further research directions which include:

More rural regional studies are needed to test whether the Campbell Town district was typical of others in Van Diemen's Land during the assignment period or whether there were significant differences in the way convicts worked and lived in other

areas. A study of the convict working class in Hobart or Launceston is also needed to establish the different opportunities and issues for convicts working in a town setting.

Further studies are required that more directly examine the historical formation of the multi-layered working class during the convict era in Van Dieman's Land and take into account how working conditions varied for emancipists, free migrants, ticket holders and convicts. The competition for work, the general living conditions and aspirations of the working class of this era have not been examined closely. Some existing studies have concentrated only on convicts, including this one, instead of examining more broadly class formation in a class that includes both free and unfree workers.

A more detailed study is needed substantiating the effect on population growth of the low marriage rates of convict women while under sentence. This thesis was only able to briefly present the conclusion that the assignment system substantially affected population growth in Van Diemen's Land by preventing convict women from marrying and producing children during their years of servitude. Quite a rich load of sources exist that enable a far more detailed study to be made, including birth rates and child mortality rates at the Houses of Correction where pregnant unmarried convict women went to give birth, household census data from the 1840s and memorials seeking permission to marry, as well as finding a model to account for *de facto* partnerships and the children produced from these relationships. Such a study also needs to account for the high rates of men and women who chose not to form a family unit at all.

A study of the settler class of large land owners in the Midlands from the 1820s to 1840 would enable a more detailed understanding of how the middle class formed and changed over this period. More work needs to be done examining the way the group achieved rapid wealth between 1820 and 1840 by examining surviving farm accounts and testing whether the availability of cheap labour was really a key factor in wealth creation. Contradictory assumptions exist about social exclusivity through class intermarriage or by marrying out with the children of former convicts. The assimilation or exclusion of newcomers, and whether land remained the basis of

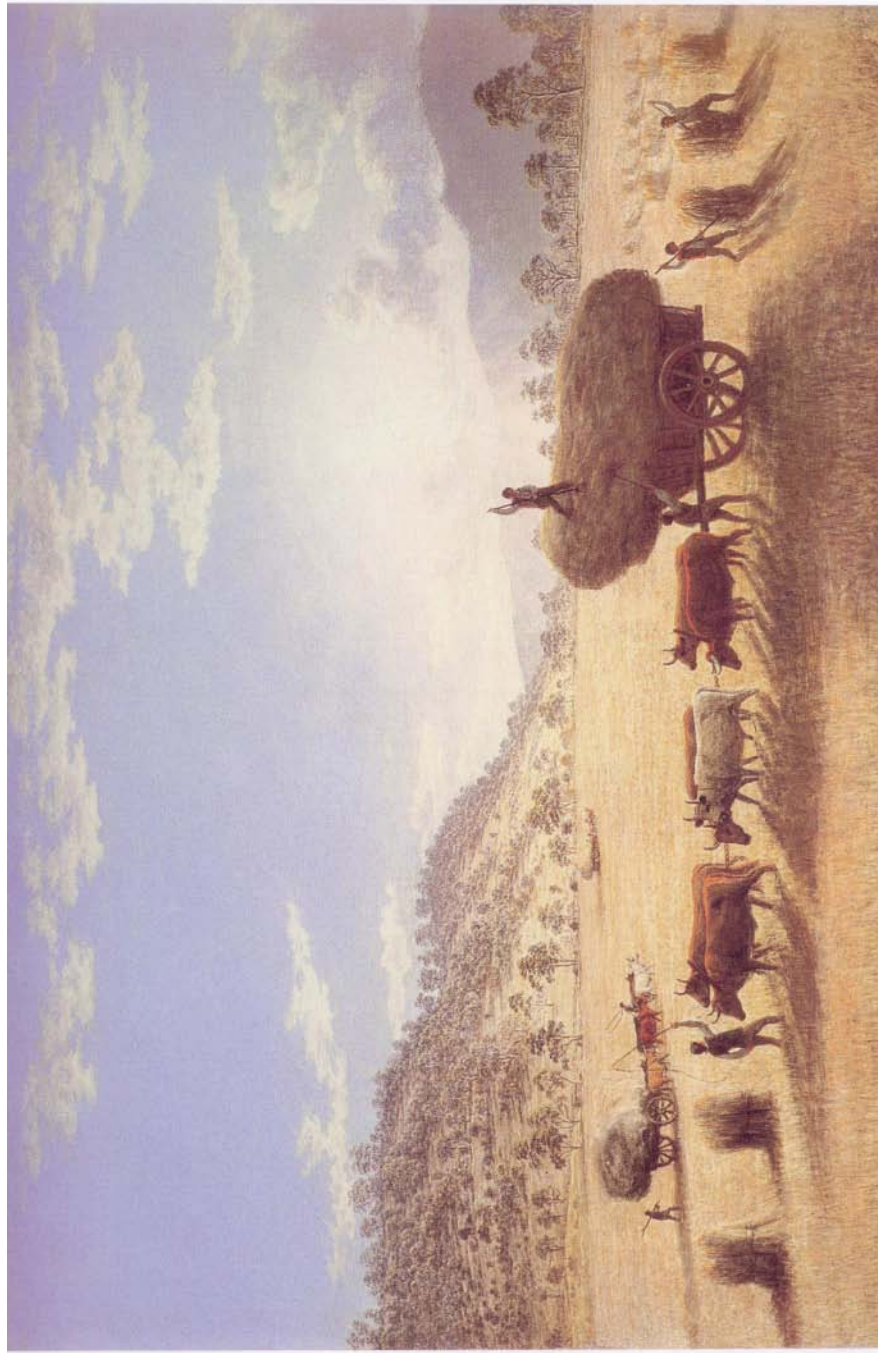
social power in the district as the century progressed, are also issues that would help explain the way this group maintained itself.

Artists sometimes grasp instinctively the essence of their own times in their paintings and for this reason I would like John Glover, an English landscape painter and also a large land owner on the Nile River to provide the last image of the assignment system. In 1835 Glover, completed a traditionally themed painting of the end of harvest in his wheat paddock.<sup>84</sup> It was a late summer's afternoon and the scene was both familiar yet strangely different. In the foreground several men dressed in corduroy trousers and white cotton shirts were tossing sheaves of wheat up to another, who stood high on the wagon catching them, while a bullocky was cracking his whip at the team of six getting them ready to move on. Two other loaded wagons were already moving homewards through the golden stubble of the middle distance. An English viewer would immediately see that this was not England. The sun shone with a fierce incandescence low in the sky casting the men, the wagon and the bullocks into long shadows that reached out towards the viewer. On the left, low parched hills rose up behind a group of men's huts and on the right beyond the tree line of the Nile, a high range of wild hills was already in shadow. Unless the viewer knew that Glover ran his farm on assigned labour, it was not possible to guess the men were convicts. Intuitively Glover had painted a scene that could represent the assignment period in Van Diemen's Land—the golden harvest reaped from a wilderness, but cast into shadows by the use of forced convict labour and the dispossession of the land's Aboriginal owners.

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<sup>84</sup> David Hansen, 'My Harvest Home'-reproduction of painting in *John Glover and the Colonial Picturesque*, Hobart, Tasmanian Museum & Art Gallery & Art Exhibitions Australia Ltd, 2003, pp. 116, 216.

## 5. My Harvest Home



**5. My Harvest Home**

**John Glover 1835**



## Appendices

### Appendix 1: Population of Van Diemen's Land

Year	1833	1834	1835	1836
Free males	10990	12374	12923	14694
Free females	7185	8512	9054	9999
Convict males	10249	10438	12826	13150
Convict females	1496	1500	1702	1701
Total males	21239	22812	25749	27844
Total females	8681	10014	10756	11700
Total convict	11745	11938	14528	14851
Total free	18175	20886	21977	24693
Total population	29920	32824	36505	39544

Source: James Ross, *Hobart Town Almanacks*, 1834 -1837.

### Appendix 2: Population of the Campbell Town Police District.

Year	1833	1834	1835	1836
Free males	597	614	682	795
Free females	321	365	400	466
Convict males	870	909	1152	1447
Convict females	53	84	86	106
Total males	1467	1523	1834	2242
Total females	374	449	486	572
Total convict	923	993	1238	1553
Total free	918	979	1082	1261
Total population	1841	1972	2320	2814

Source: James Ross, *Hobart Town Almanacks*, 1834 -1837.

## Appendix 3: Returns of male convicts, Van Diemen's Land.

Year	1833	1834	1835	1836
Population on 1 January	11062	13126	13664	14903
Population on 31 December	13126	14641	15724**	16933
Sentence expired	331	631	467	653
Pardons	111	131	138	NR
Transported to Sydney	14	5	24	7
Penal settlement (Port Arthur)	478	881	1172	1222
Absconded or dead	275	225	225	225
Died	112	208	188	196
Executed	11	12	4	1
Jails	65	57	33	58
Invalid establishment	143	161	143	187
Sick in hospital	NR	78	72	89
Chain gang	741	851	805	657
Road gang	(2553)*	1246	2919	(2702)*
Engineers	(2553)*	839	516	(2702)*
Department Government employment	(2553)*	807	716	(2702)*
Mechanics on loan to settlers	408	245	220	258
Assigned to settlers	6753	6046	6475	6494
Constables & field police	256	291	338	3069
Tickets of leave	1448	1887	2462	360
Missing	NR	40	39	30
Total	1326	14641	15724**	16933

Sources: James Ross, *Hobart Town Almanacks*, 1834-1837. Ross used the statistics produced by the Convict Department for the official *Blue Books* that provided an annual accounting of the convict system to the Colonial Office in Britain.

Note: (-)\* In 1833 and again in 1836, the numbers of convicts working in road parties, with the Engineers Department and in government employment were presented as one total.

\*\* 15724 total of men for the 1835 Return should be 16956 (or 15871 if the numbers of men no longer in system are deducted). I have left the actual entries as they were presented in the Almanack, but have used the correct total where it is used in the Thesis eg Table 6.1.

## Appendix 4: Returns of female convicts, Van Diemen's Land.

Year	1833	1834	1835	1836
Population on 1 January.	1644	1864	1874	2051
Population on 31 December.	1864	2024	2195	2377
Sentence expired	107	127	116	119
Pardons	6	12	14	46
Transported to N.S.W.				2
Died	18	11	13	NR
Houses of Correction	NR	356	408	365
Invalid establishment	NR	NR	26	30
Assigned to settlers	NR	1518	1426	1508
Tickets of leave	NR	NR	192	292
Missing	NR	NR	NR	NR
Total	1864	2024	2195	2377

Sources: James Ross, *Hobart Town Almanacks*, 1834-1837. Ross used the statistics produced by the Convict Department for the official *Blue Books* that provided an annual accounting of the convict system to the Colonial Office in Britain.

Notes: Returns of females, as reported, is less specific than for male convicts. Houses of Correction also provided hospital services and birthing services. All female convicts working as domestics in government institutions (hospital, orphan school, government house etc) appear to have been included in the numbers assigned to settlers. NR indicates the numbers were not reported.

NR is Not Reported in the Almanack.

## Appendix 5: Charges against males residing in the Campbell Town district, 1835.

Charge category	Assigned men	Ticket of leave men	Free men & settlers	Totals
Absconding or absent from work	57	9	8	74
Work related	137	14	23	174
Leisure related	36	21	94	151
Relationships with women	7			7
Common Law	62	15	50	127
Employer breaches	0	1	41	42
Not specified	22			
Total charges	324	61	213	597
Percentage of charges	54%	10%	36%	100%

Source: LC83/1, Magistrate's Bench Book, Campbell Town police district, 1835, AOT.

Notes: During 1835, the Convict Department's *Blue Books* estimated there were 1152 convict men and 682 free men living in the district. Convicts included both assigned and ticket of leave men. Free men included settlers and emancipists.

Employer breaches included all charges against employers for failing to honor a contract or an Act eg employers who failed to provide adequate rations etc to assigned men, one charge against a ticket of leave convict who employed others, employers who failed to pay wages to free employees or breached publicans responsibilities under a number of Acts.

Appendix 6: Comparisons between Campbell Town, Norfolk Plains and Oatlands police districts in 1830.

Although the Campbell Town police district is the focus of this study, a comparison with the neighbouring Oatlands police district to the South and the Norfolk Plains police district to the north-west provides some comparisons of interest and establishes the dominance of the Campbell Town district in agricultural wealth, in population and in acres granted and under cultivation.

Most statistics for this section were obtained from *A statistical view of Van Diemen's Land ...forming a complete emigrant's guide*, written by Charles Goodridge, (1832). They are based on the annual *Blue Books* produced by the Hobart Administration and forwarded to the Colonial Office as an account of the colony's expenditure and growth for the year. Goodridge did not have direct access to this information and accurately plagiarised it from James Ross's *The Van Diemen's Land Anniversary and Hobart Town Almanack for the Year 1831*. The statistics cover the year 1830. Only the *Blue Books* produced annual statistics by district. Although they are the most accurate of the official estimates, they should be treated cautiously and regarded as indicative as it is difficult to determine how accurately they were collected. I have used the references from Goodridge as they are easier for scholars to access than either the *Blue Books* or the Ross *Almanack*. A more comprehensive run of this data can be constructed by recording them from earlier and later *Blue Book* manuscripts in the Archives of Tasmania. 1830 was the year half way through Governor Arthur's term of office and demonstrates the tremendous growth of wealth after only six years of settlement in these districts by farmers with capital. Many continued to expand their land holdings and livestock in the following six years of Arthur's administration.

Table 6A: General land comparisons in 1830:

	Campbell Town police district	Norfolk Plains police district	Oatlands police district
Size in square miles	1260	2250	900
Size in acres	850,000	1,500,000	576,000
Acres granted	260,000	125,000	N/A
Acres under cultivation	5800	5500	2130

Goodridge, *op. cit.* pp. 214, 220, 225, 227, 231. (Table & comments below)

Campbell Town district: Beautiful well watered valleys and open plains.

Norfolk Plains district: Only one quarter can be farmed, the rest consists of rugged mountains and inferior land.

Oatlands district: Fine open upland downs and pastures.

Table 6B: Population estimates in 1830:

	Campbell Town police district	Norfolk Plains police district	Oatlands police district
Free adult males	290	290	230
Free adult females	180	80	80
Free underage males	90	105	70
Free underage females	90	105	70
Male convicts	510	400	460
Female convicts	40	20	20
Total free	650	580	450
Total convict	550	420	480
Total population	1200	1000	930

Goodridge, *op.cit.* pp. 216, 225, 228.

Table 6C: General wealth comparisons in 1830:

	Campbell Town police district	Norfolk Plains police district	Oatlands police district
Estimated number of large, well capitalised farms*	64	27	35
Land value-£ (granted acres)**	130,000	62,500	60,000
Livestock - £	84,375	63,250	22,500
Annual produce - £	38,156	36,547	14,820
Total district wealth	£252,531	£162,297	£97,320

Goodridge, *op.cit.* pp. 215, 224, 227.

\*Goodridge accepted and used James Ross's list of principal farmers, whom Ross named and listed in his *Almanack*, *op.cit.* for 1831. These men consisted of respectable middle class capitalists who had arrived in the early 1820s in the post Bigge era. These numbers do not include emancipists with middling or large farms. Considering the small number of large farms for Norfolk Plains in relation to the total district wealth, these statistics suggest that a significant number of successful emancipist farmers may have also farmed there.

\*\*Goodridge put an estimated value of 10s per acre on land grants which included all improvements. See Goodridge, *op.cit.* p.224.

Table 6D: Agricultural comparisons in 1830.

## Campbell Town Police District

Crop	Acres under cultivation	Produce in bushels (or tons)	Average price per bushel/ton	Estimated return for crop, £.
Wheat	3100	62,000	6s	18,600
Barley	450	18,000	4s	3600
Oats	300	8400	4s	1600
Peas/beans	30	340	8s	136
Potatoes	120	300 (tons)	60s/ton	900
Turnips	320	1920 (tons)	30s/ton	2880
English grasses for hay	1480	-	£7/acre	10360
Totals	5800 acres			£38,150

Goodridge, *op.cit.* pp. 222- 223.

## Norfolk Plains Police District

Crop	Acres under cultivation	Produce in bushels (or tons)	Average price per bushel/ton	Estimated return for crop, £.
Wheat	4100	73,800	6/6d	23,985
Barley	280	9160	4s	1792
Oats	300	9900	4s	1980
Peas/beans	35	1050	8s	420
Potatoes	80	480 (tons)	60s/ton	1440
Turnips	120	720 (tons)	30s/ton	1080
English grasses for hay	585	-	£10/acre	5850
Totals	5500			£36,547

Goodridge, *op.cit.* p. 227. See also<sup>1</sup>

## Oatlands Police District

Crop	Acres under cultivation	Produce in bushels (or tons)	Average price per bushel/ton	Estimated return for crop, £.
Wheat	1500	30,000	6/6d	9750
Barley	250	5500	4s	1100
Oats	140	3500	4s	700
Peas/beans	30	600	8s	240
Potatoes	60	210 (tons)	60s/ton	900
Turnips	N/A	-	-	N/A
English grasses for hay	150	-	£10/acre	1500
Totals	2130			£14,820

Goodridge, *op.cit.* p. 214.

<sup>1</sup> N. G. Butlin, J. Ginswick & P. Statham, 'Colonial Statistics before 1850', *Source Papers in Economic History*, No. 12, Canberra, Australian National University, 1986, p. 63. In this paper the authors claim that 31,155 acres were under wheat in Van Diemen's Land in 1830. Goodridge estimates above that the Oatlands, Norfolk Plains and Campbell Town police districts with 8700 acres under wheat, grew approximately one third of the wheat crop.

Table 6E: Livestock Comparisons 1830.

## Campbell Town Police District

	Number	Value per head	Estimated total value, £
Horses	450	£30	13,500
Sheep	180,000	6s	54,000
cattle	13,500	25s	16,875
Totals			£84,375

Goodridge, *op.cit.* pp. 233-34

## Norfolk Plains police District

	Number	Value per head	Estimated total value, £
Horses	400	£30	12,000
Sheep	75,000	6s	22,500
cattle	23,000	25s	28,750
Totals			£63,250

Goodridge, *op.cit.* p. 227.

## Oatlands Police District

	Number	Value per head	Estimated total value, £
Horses	250	£30	7,500
Sheep	90,000	5s	22,500
Cattle	10,000	20s	10,000
Totals			£40,000

Goodridge, *op.cit.* p. 214



## Appendix 7: Police magistrates in three Midlands police districts 1831-36.

	1831	1832	1833	1834	1835	1836
Campbell Town	James Simpson (Appointed 1827)	James Simpson	Capt. James England	James Leake	John Whitefood (acting)	Capt. Frederick Forth
Norfolk Plains (Longford)	Capt.Malcolm Laing Smith	Capt. Malcolm Laing Smith	Capt.Malcolm Laing Smith	Capt.Malcolm Laing Smith	Alfred Horne	Alfred Horne
Oatlands	Thomas Anstey (Appointed 1824)*	Thomas Anstey	Thomas Anstey	John Whitefood	Peter Murdoch (acting)	John Whitefood.

Source: James Ross, *Almanacks* for 1831, 1832, 1833, 1834, 1835, 1836. See Police Establishment.

\* Anstey was appointed a justice of the peace in 1824 then made police magistrate in 1827.

Appendix 8: The non-stipendiary magistrates (justices of the peace) of the Campbell Town police district, 1824-36:

The following men were appointed by Arthur between 1824-26 and continued to serve until Arthur's departure:

Lieutenant Samuel Hill R.N.,	farmed near Campbell Town
Henry Jellicoe	farmed near Campbell Town
Richard Willis	farmed north of Campbell Town on the Main Road
Benjamin Horne	farmed near Ross
Capt. William Serjeantson	farmed on the South Esk River
James Cubbiston Sutherland	farmed on the Isis River

Arthur appointed the following additional men after the 1827 reforms establishing the police magistrates and paid police.

Capt. William Wood	farmed north of Campbell Town on the Main Road
Charles Viveash	farmed on the Isis River
Capt. James Crear	farmed on the South Esk River
John Leake	farmed near Campbell Town
Major William Gray	farmed on St Pauls Plains near Avoca

A group of around six magistrates living near the main villages, were rostered to join the police magistrate to hear cases in the Campbell Town and Ross courts when needed. The others who lived further away, were on call to hear cases at their houses when local farmers wished to charge their assigned servants. These men included Wood, Serjeantson, Sutherland, Viveash, Crear and Gray. See the district map for the location of their farms. Occasionally they would join the police magistrate on the bench in Campbell Town.

## Appendix 9: Military detachments in Campbell Town police district 1831-1836.

Campbell Town Police District	1831	1832	1833	1834	1835	1836
<i>Campbell Town</i>	No data	No data	No data	No data	Small detachment	Small detachment
<i>Break o' Day Plains</i>						
Lieutenant	1					
Captain						
Ensign						
Sergeant	1					
Corporal	2					
Privates	25					
<i>Fingal</i>						
Lieutenant						
Captain						
Ensign						
Sergeant		1				
Corporal			1			
Privates		9	4			
<i>Avoca</i>						
Lieutenant		1			Military detachment.	No data
Captain					No data re numbers.	
Ensign			1			
Sergeant		1	1	1		
Corporal			1	1		
Privates		25	16	19		
<i>St Pauls Plains</i>						
Lieutenant						
Captain	1					
Ensign						
Sergeant			1			
Corporal	2		1			
Privates	25		16			
<i>Ross</i>						
Lieutenant					Military detachment.	No data
Captain	1				No data re numbers.	
Ensign		1				
Sergeant	1	1		1		
Corporal	2			1		
Privates	35	18		19		
<i>Auburn</i>						
Lieutenant	1					
Captain						
Ensign						
Sergeant	1					
Corporal	2					
Privates	25	7	3			

Source: James Ross, *Almanacks* for 1832, 1833, 1834, 1835, 1836. See Military Establishment.

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### **Records of the Court of Requests**

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### **Chief Police Magistrate's Office**

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|------------|---|
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| POL 47/1   | Ticket of leave monthly muster returns, Campbell Town police office, September 1835 to July 1837. |

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|-----------|---|
| HO 10/48  | General muster list for all male and female convicts who arrived in Van Diemen's Land, 1804-33. |
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|----------------------|--|
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